

NOTES

ON THE

FOUNDATION AND HISTORY OF MARISCHAL COLLEGE.

1. *Academia* was employed as synonymous with *Studium Generale* and *Universitas Literaria* in the earliest history of the Continental Universities.

Huber on the English Universities. Vol. I. pp. 3, 19.

2. In England, it has been used at least since the year 1524, in public Acts of Universities, in official documents, and in the common literature of the country, to denote a University as distinguished from its Colleges.

Wood's "Historia et Antiq. Univ. Oxon," *passim*.

Bacon "De Augustis," Lib. II.

1557, Huber on English Universities, Vol. I., p. 289, note.

1603, Do. do. do. Vol. II., Pt. i., p. 103, note.

3. In Scotland, during the sixteenth century, at least after 1553 (forty years before the foundation of Marischal College), *Academia* was used in Charters and other official documents of the Universities, and in the same sense.

1553, "Nova Fundatio Collegii Mariani." St. Andrew's Report (1826-7), p. 362.

1572, New Foundation of the College of Glasgow. Glasgow Report, 237.

1577, "Nova Erectio," by James VI. Glasgow Report, 239.

1625, Act of Senatus Academicus. St. Andrew's Report, 203.

Thus, also, in the Foundation Charter of Marischal College (1593) the Universities of St. Andrew's, Glasgow, Edinburgh, and Old Aberdeen, are referred to as *Academiae*.

4. *Gymnasium* was used no less distinctively, in the sixteenth century, in the Charters of the Scottish Colleges, as synonymous with *Collegium*. It is the title given to the Colleges of St. Andrew's and Glasgow, in all the Charters above referred to.

The title of *Gymnasiarcha* is given, in the "*Nova Erectio*" of Glasgow, to the Principal of Glasgow College, and in the Foundation Charter of Marischal College to the Principal of the College of Old Aberdeen.

5. Marischal College and University (*Collegium et Academia*) was founded in 1593, after the model of the College and University of Glasgow, as reformed under the "*Nova Erectio*" of James VI.; with University and College Officers, the same in number, distinguished by the same names, invested with the same powers, discharging the same duties, and subjected to the same rules. Each University (*Universitas, Academia*) had a Chancellor, Rector, and Dean of Faculty; each College (*Collegium, Gymnasium*) a *Gymnasiarcha* and three Regents, with Bursars and College Servants. The Chairs now existing in each University in the higher Faculties, with the single exception of those held by the Principals who have always had a Theological character have been founded subsequently to the erection of the Colleges, a power of founding additional chairs being expressly acknowledged in the Charter of 1593.

The Foundation Charters of the Marischal and Glasgow Colleges, so far as they refer to College and not to University matters, are expressed

MARTIN, W.

in similar terms. That of Aberdeen, from its creating a University, while that of Glasgow recognises one already existing, is more extensive in its details, but the phraseology is similar in both. The recognised "*Universitas*" of the one answers to the created "*Universitas*" of the other, and the "*Collegium et Academia Glasguensis*," to the "*Collegium et Academia*" of Aberdeen.

"Nova Erectio," Glasgow, 1577, Glasgow Report, p. 239; "Institutio et Erectio" of Earl Marischal, 1593, Aberdeen Report, 1826-7, p. 235.

As far back as our materials reach, Marischal College has been recognized as a University. Thus, in the Charter of 1642, by Charles I., we find a reference to a Report of a Commission appointed by his Majesty, "to survey and take notice of the present estait of the University of Old Aberdene, and King's College thair of, and als of the New College of Aberdene, callit Mershall Colledge, and what wis requisit for supplie and helpe of the samyn in tyme coming: wha after tryall hes maid report to his Majestie, be the whilk it is fund that, by and attour the present rents thereof, the competent maintenance in a reasonable way to the proposers and fundit persons of the saids Universities and Colleges foresaid respective will amont, &c. Thairfore his Majestie, with advyse and consent of his Hienes' trest Cusings and Counsellors."

Aberdeen Report, 1826-7, p. 155.

Reference to Acts of Parliament, where it has been styled only a College, would of course prove nothing. *College* is the only title used in the Act of 1597, "anent the new foundation of the College of Auld Aberdeen."—Acts, Vol. IV. p. 153.

6. The Rector and Dean of Faculty are invested in the Charter of 1593 with the amplest University privileges, being expressly authorised to exercise all powers pertaining to their respective offices in Universities or exercised by the Rector and Dean of the University of Edinburgh, Glasgow, St. Andrew's "*vel alterius cujusvis laudabilis Academiae*."

The following extract from the answers of the Senatus Academicus of St. Andrew's to the Queries of the Royal Commissioners (1826-7), will exhibit the powers of the Rector of that University.

"The Rector acts as Vice-Chancellor in conferring Degrees, when no other person is specially appointed to that office. He confers Degrees in all the Faculties with the concurrence of the other members of the Senatus, and with his Assessors he hears and determines in all causes that may be brought before him."—St. Andrew's Report, p. 258.

7. This Charter by the Earl Marischal, was ratified in 1593, "in all its articles, clauses, heads, and conditions," by the King and the Estates of Parliament.
8. The word College, as used in Scottish Acts of Parliament, seems, occasionally at least, to have been equivalent to University.

Compare Charter of 4th March, 1670, in favour of Glasgow University, with its ratification by Parliament, 1672.—Glasgow Report, 1826-7, pp. 232, 234.

By this word only, was the University of Edinburgh designated by its founders.

9. The Universities of New and Old Aberdeen were united by Charles I., in 1642, into the Caroline University of Aberdeen. The following extract from the evidence of Dr. Forbes, Professor of Humanity in King's College, before the Royal Commission of 1837, will explain the result:—

"In the year 1640, Charles I. incorporated Marischal College with the University of King's College by Royal Charter, and the Parliament followed up this step of his Majesty by an Act, appropriating two-thirds of the Bishop of Aberdeen's revenues to King's College, and one-third to Marischal College—the Bishopric

being suppressed. By the Recissory Act of 1672, when Episcopacy was restored, the Act of Parliament appropriating the revenue of the Bishop to the Colleges was repealed, but not so the King's Charter of Incorporation of the Colleges; for in the records of King's College there are still preserved the Minutes of three Commissions of Visitation in the reigns of Charles II. and William and Mary, by which it appears that the commission to the Visitors on these three occasions was to visit the Caroline University, and the two Colleges therein. And we find the Bishop of Aberdeen (Chancellor *ex officio* of the University of King's College) sitting as Chancellor of the United University, and the Earl Marischal (Chancellor of Marischal College by the Charter) appearing, according to the phraseology then adopted, '*pro suo interesse.*' How long this state of things continued I cannot tell, as there is a great hiatus in the records in the early part of last century. * * * The two Institutions seem to have separated by mutual consent previous probably to 1715."—Aberdeen Report, 1837, p. 44.

10. This (United) University, with its Colleges, was recognised, or referred to, in

1654, by Cromwell. "Ordinance for support of U. of Scot.," p. 159.—Abd. Report.

1658, by do. "Charter of Mortification," p. 160.

1675, at Visitation.—Answers, pp. 167, 242.

1695, by William III. "Littera Donationis," 164. The Bursaries founded by this Letter in the "University" are equally connected with King's and Marischal Colleges.—See Aberdeen Evidence, p. 272.

1713, by Queen Anne. Grant to "University and Colleges," 165.

1718, at Royal Visitation. "University and Colleges," 167.

Hence, also, up to the present day, have British Acts of Parliament recognised only one University in Aberdeen.

W. M.

MARISCHAL COLLEGE, December 22, 1849.

1. The first part of the paper is devoted to a general
discussion of the subject. It is shown that the
theory of the subject is not yet complete, and
that there are many points which require further
investigation. The author then proceeds to a
detailed examination of the various theories which
have been proposed, and shows that none of them
is entirely satisfactory. He then proposes a new
theory, which he claims to be more complete and
more satisfactory than the others.

2. The second part of the paper is devoted to a
detailed examination of the various theories which
have been proposed. The author shows that none
of them is entirely satisfactory, and that there
are many points which require further
investigation. He then proposes a new theory,
which he claims to be more complete and more
satisfactory than the others.

3. The third part of the paper is devoted to a
detailed examination of the various theories which
have been proposed. The author shows that none
of them is entirely satisfactory, and that there
are many points which require further
investigation. He then proposes a new theory,
which he claims to be more complete and more
satisfactory than the others.

4. The fourth part of the paper is devoted to a
detailed examination of the various theories which
have been proposed. The author shows that none
of them is entirely satisfactory, and that there
are many points which require further
investigation. He then proposes a new theory,
which he claims to be more complete and more
satisfactory than the others.

5. The fifth part of the paper is devoted to a
detailed examination of the various theories which
have been proposed. The author shows that none
of them is entirely satisfactory, and that there
are many points which require further
investigation. He then proposes a new theory,
which he claims to be more complete and more
satisfactory than the others.

THE RIGHT

OF

MARISCHAL COLLEGE AND UNIVERSITY,

ABERDEEN,

TO CONFER DEGREES,

NOT ONLY IN ARTS, AS ADMITTED,

BUT IN

Divinity, Laws, and Medicine,

VINDICATED

AGAINST THE ATTACKS

OF THE

RESPONSIBLE ADMINISTRATORS

OF KING'S COLLEGE AND UNIVERSITY,

OLD ABERDEEN,

AND SHEWN TO HAVE BEEN AFFIRMED,

MORE THAN A HUNDRED YEARS AGO,

BY THE HOUSE OF LORDS, AS THE SUPREME COURT OF APPEAL,

UNDER THE INSTRUCTIONS OF LORD CHANCELLOR HARDWICKE.

BY ONE OF THE PROFESSORS.

LEWIS SMITH, ABERDEEN;

A. & C. BLACK, EDINBURGH;

RICHARD GRIFFIN & CO., GLASGOW;

SMITH, ELDER, & CO., LONDON.

MDCCCLIII.

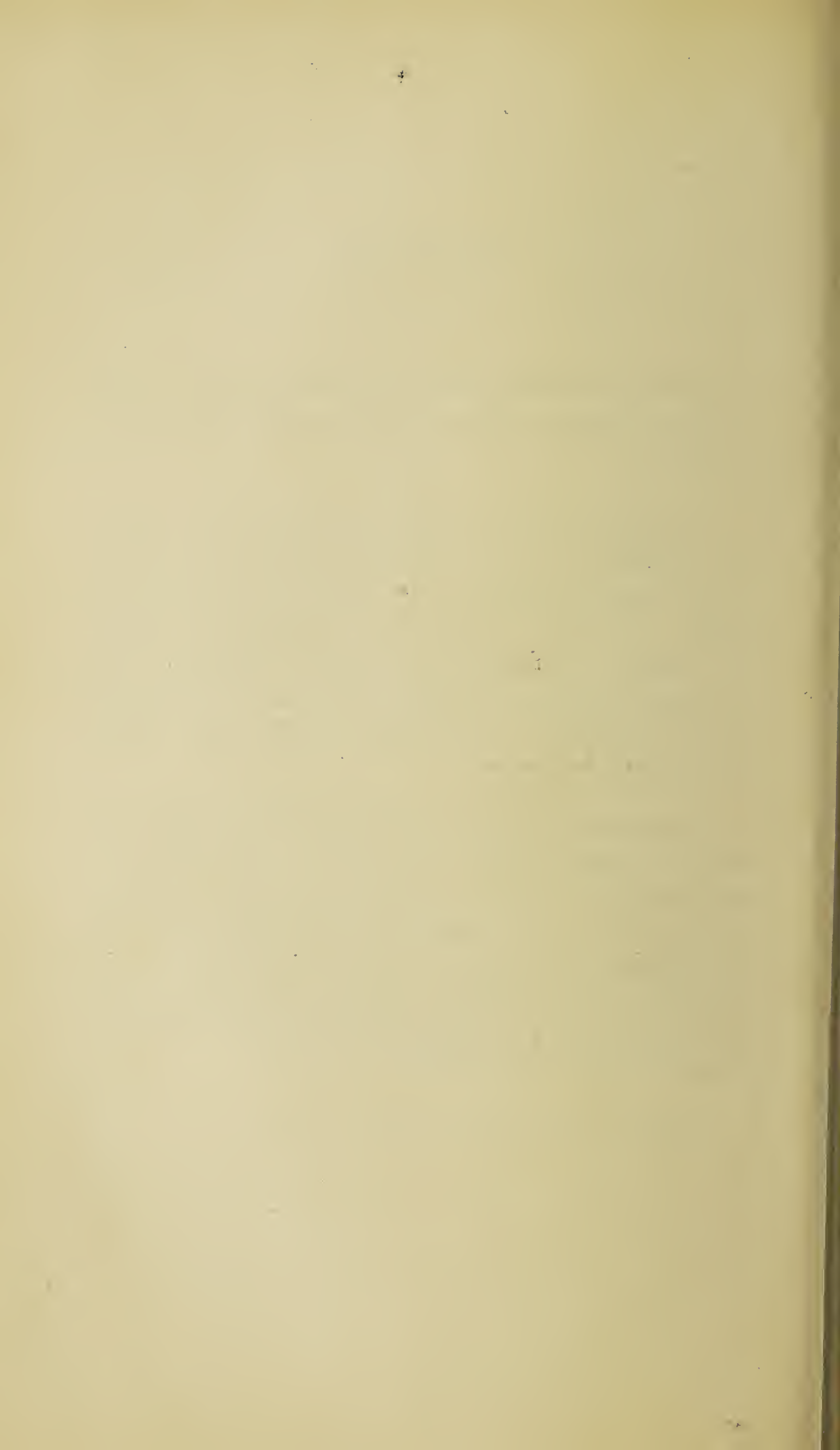
PREFACE.

“Take my word for it, that King’s College will receive a fitting
“Answer, and, when it gets it, will be the last to complain of
“delay.”

These words are part of a letter to the Editor of the *Lancet*, from Professor CLARK, M.D., dated on Monday the 6th of September last, and published in that Journal on the Saturday following. The letter was written and sent with the knowledge and unanimous approbation of the Medical Committee of this University (consisting of the Medical Professors and Lecturers), whose proceedings in this business were duly made known to the Senatus Academicus.

In preparing this attempt to redeem the pledge the Author then gave, his original intention was to place it, when finished, at the disposal of the Senatus Academicus, and it was accordingly written out in the plural number; but having, when he was far advanced in his task, seen what appeared to him good reason for changing this intention, it is proper to state that no other member of that Body is responsible for the present Vindication, as regards either matter or manner.

MARISCHAL COLLEGE, *December 24, 1852.*



THE RIGHT
OF
MARISCHAL COLLEGE AND UNIVERSITY, ABERDEEN,
TO CONFER DEGREES,
NOT ONLY IN ARTS,
BUT IN DIVINITY, LAWS, AND MEDICINE,
VINDICATED.

1.—*Apology and occasion for this Vindication.*

WHEN any of the responsible administrators of a University that received its authority and privileges from Parliament two hundred and sixty years ago, and has remained ever since in the secure possession of its rights, appear before the public soliciting attention to any defence of those rights, we are aware that some apology is called for : we feel that the reflection may well occur to men of sense, that the studies and other usual duties of our several departments might afford us much more fitting, as well as more honourable occupation.

Necessity is our apology. A series of attacks on one of those rights, made with an audacity that has only increased with our forbearance, now compels us to turn aside from the usual routine of our duties, to what is happily a very unusual one—the defending of the chartered and statutory privileges of a University where it has pleased our Queen and Country to place us as administrators and defenders.

The attacks, which we are unconscious of having done anything

to provoke, and which (as will appear before we are done) are of a kind that no provocation could justify or palliate, have come from the unseemly quarter of a neighbouring University. It is the Principal and Professors of King's College and University, Old Aberdeen, that have been our active assailants.

First, in the series of their attacks came, in January 1850, an avowed pamphlet of theirs, under this title, "Has Marischal College in New Aberdeen, the power of conferring Degrees in Divinity, Laws, and Medicine?" This pamphlet, which is written with an affectation of authority in questions of law, professes to display the indefeasibility of their own right to confer all Degrees, and the want of right in the University they are pleased to attack. To do justice to any discussion relating to the position and privileges of a University like ours, founded amidst the rapid current of events that followed the Reformation from Popery, would require special historical knowledge of the origin of the new Universities that then arose, and of the changes that were then made in the Universities of Papal origin, far beyond what the pamphlet shows its authors to possess. How far candour and fairness, and even trustworthiness of statement, are wanting in their performance, we will not say: the reader will be able to judge for himself before we can close our vindication.

We are not ashamed to confess that, although publicly accused of DECEPTION,* yet confident in the indefeasibility of our own rights, and unaffectedly reluctant as we were to make such an exposure of our assailants as any adequate justification of the rights of the University assailed would render unavoidable, we were very willing to leave their loose, unjointed, and often self-contradictory statements and reasonings to die out from inherent weakness. Our forbearance was not appreciated by our assailants.

Their next attack upon us was made in autumn 1851, in a new mode. Through the Post-office they distributed a *Circular*, very extensively, among the Medical Profession in England, withholding it, for some time, from distribution in Aberdeen, where the existence of it continued meanwhile to be unknown to us, as well as to the public. Their circular contained the following sentence:—"The University and King's College is *the only*

* Page 42 of their Pamphlet, or Appendix E.

Institution in Aberdeen which has a legal power of granting Degrees in Medicine.”

The meaning of this is evidently twofold :—

First, that Marischal College and University, Aberdeen, has no power of granting Degrees in Medicine.

Second, that King’s College and University is an Institution *in Aberdeen*, having power of granting Degrees in Medicine.

Let us dismiss the second point in a few words. How they have come to conceive or to represent their own Institution to be *in Aberdeen*, it is not for us to explain. Anybody else may learn from consulting their Charters of Foundation and the Scotch Acts of Parliament* confirming those Charters, that the seat of their University is *Old Aberdeen*, which is a Burgh of Barony, with a Magistracy of its own, and with a population of 2000 (including Professors and Students), and is distant about half a mile from the nearest point in Aberdeen, a Royal Burgh with a population of 60,000. Old Aberdeen is no more Aberdeen than it is Oxford.

Their circular was issued in such a form, and with names marshalled in such array, as to make a reader believe that the libel it contained against Marischal College and University, and the absurd representation it gave of King’s College and University as being an Institution in Aberdeen, were sanctioned not only by the Principal and all the Professors of the Old Aberdeen Institution, but by Lord Aberdeen its Chancellor, and Lord Ellesmere its Rector.

Encouraged by our continued silence to make a new advance in their career of unprovoked aggression against us, they ventured at length, in June 1852, to repeat the same intimation, by *Advertisement*, in some of the weekly Medical Journals of London. In their Advertisement,† which was attested by the published signature of the Professor of Medicine, our assailants had the openness to include their names, which we repeat here, as

* Acts, 1617, 1633, 1670.

† See Lancet of June 26th, 1852.

indicating persons responsible for the attacks that it has come to be our duty to encounter:—

HUGH MACPHERSON, M.D., Professor of Greek.

GEORGE FERGUSON, A.M., Professor of Latin.

FREDERICK FULLER, M.A., Professor of Mathematics.

DAVID THOMSON, M.A., Professor of Natural Philosophy.

HERCULES SCOTT, LL.D., Professor of Moral Philosophy and Logic.

ANDREW FYFE, M.D., Professor of Medicine.

ANDREW SCOTT, A.M., Professor of Oriental Languages.

PATRICK DAVIDSON, LL.D., Professor of Civil Law.

Among the Members of King's College and University, Old Aberdeen, there are *three* that *require a Degree of Doctor, each in his own Faculty, as an indispensable qualification in order to hold his office.* TWO of those three were indebted to Marischal College and University for the Degrees that thus qualify them for the offices they hold.* Of the two Doctors alluded to, one is William Jack, D.D., the venerable Principal, whose name we are happy to see withheld from their Advertisement. The other is Patrick Davidson, LL.D., Professor of Civil Law.

We concede to our assailants the praise of having at length chosen a mode of attack, as advantageous as it was unscrupulous. The confusion and obscurity of statement, and occasional absurdity of argument, in their Pamphlet, counteracting in some degree the effect of their misrepresentations, now no longer served as any protection to us. Their unreasoning, dogmatic Advertisement, with all its untruth, was calculated, by the very force of its effrontery, to make in England, where it was published, the impression that, in persisting to grant Degrees in Medicine, either we must have usurped, within the last few years, an authority that never had been legally conferred upon us, or, if we had exercised, for a hundred years and more, an illegally usurped authority, we must recently have been stript of it, by some solemn procedure and decision in the Queen's Courts of Law, and that they, our virtuous neighbours, felt compelled to warn the public against us. How unfounded and how unjust such an im-

* A Doctor in Divinity, a Doctor in Civil Law, a Doctor in Medicine. There was originally a fourth, a Doctor in Canon Law, but his office is now extinct. See Appendix A.

pression was, most educated men in Scotland, and all educated men in and around Aberdeen, know right well ; none better than our detractors.

2.—*The question raised one of Law—already decided.*

We do not profess to be of any authority in questions of Law. On the contrary, we are aware, that with whatever clearness, plainness, or apparent conclusiveness we might endeavour to defend the assailed rights of this University, on the basis of our Charters and of Acts of Parliament, still no conclusion of ours on the subject could carry weight with the public—a little perhaps because we are interested parties, but much more because neither our knowledge nor our habits qualify us to do justice to such a discussion. Every body must feel that a fitting tribunal for settling such a question as our assailants profess to have raised, is to be found only in the Courts of Law. To those Courts, happily, we have no occasion to go, at least for the purpose of having the right now called in question established and declared ; for that right was finally decided to be ours more than a hundred years ago, by the supreme Court of Appeal—the House of Lords—acting under the instructions of so celebrated a Judge, and so high an authority in University law, as Lord Chancellor Hardwicke.

Having thus the decision of the highest Court of Law in the Kingdom in our favour, we confidently rest, upon that decision, the vindication of the assailed right of our University.

3.—*How the question came to be raised formerly.*

The decision referred to should be very well known to our opponents, for the question that was decided arose, incidentally, between parties, in a contested election to the only founded Professorship in Laws in their own institution, King's College and University, Old Aberdeen. Marischal College and University, Aberdeen, however much interested in the question, was not a party, nor heard.

It was in May 1743, that a vacancy took place in the Professorship of Civil Law, founded by Bishop Elphinston in his College of St. Mary of the Nativity, with its forty-two founded members,

which has merged somehow into King's College and University, Old Aberdeen, with its ten founded members. The holder of this Professorship is known in that University as The Civilist.

The election to the vacancy proved to be the origin of a prolonged litigation, that involved the right of Marischal University to confer Degrees in any Faculty but in Arts. The dispute on this point began in questions about the meaning of certain special qualifications required, by the Founder of the College of St. Mary of the Nativity, to be possessed by all candidates for the vacant Professorship.

4.—*The Law papers and Law proceedings, how to be described here.*

In proceeding to refer to his Charter, and to give an account of a litigation chiefly relating to the proper interpretation of it, a great object with us will be to make our statements accurate, and the subject of them as plain as possible to persons not lawyers. In order to attain this object, we will not hesitate to depart from the language of the profession, and even the expressions of the documents before us (except where we profess to copy them), provided we can thereby succeed in giving the substance at once faithfully and intelligibly.

5.—*The Founder's Charter instituting the office of Civilist in King's College.*

ACCORDING TO HIS CHARTER,*

Every candidate for the office must be a University Graduate in Civil Law; either a Doctor, or, if not a Doctor, one that has already obtained, after strict examination, the next inferior Degree of Licentiate; but, in the case of a University Licentiate being elected, he is taken bound to procure himself to be promoted to the Degree of Doctor, within a year after the day of his admission to the office.

TWO PREFERENCES are enjoined :—

Preference 1st.—If any such Graduate, as is before described, can be conveniently found fit for the office, within the

* See Appendix A.

College of St. Mary of the Nativity (which was originally instituted within what was the University of Old Aberdeen), he is to be preferred to all such Graduates without the College.

Preference 2nd.—But if no such Graduate can conveniently be found fit for the office, within the College, one is to be sought for without the College, but still from within the University of Old Aberdeen, in preference to all such Graduates from any other University.

It is only in the case of no such Graduate, fit for the office, being conveniently to be had within the University of Old Aberdeen, either within or without the College, that one is to be sought for in other Universities.

If in any one of the three foregoing sets of Graduates, successively entitled to be candidates, there shall happen to be several candidates, then, out of the number, one is to be chosen that is most able and fit for the special duties of the office, as well as most likely to be circumspect and prudent in the affairs of the College, whether internal or external.

Lastly—*If any candidate shall presume to appear, not being such a Graduate as has been before described, he is pronounced by the Founder utterly disqualified from being either elected or admitted.*

6.—*Summary of the conditions in the Charter.*

These various provisions plainly embrace one qualification that is *indispensable* to every candidate, and others that are merely *recommendatory*. The indispensable qualification is that he shall be a *University Doctor or Licentiate in Civil Law*. Without this qualification, no candidate can receive a single valid vote, even from the legal electors; without this qualification, the appointed Admitter to the office cannot legally receive into it any person, howsoever qualified in other respects, or howsoever elected. It is only *the recommendatory qualifications* (including ability, fitness, and prudence) *of such competing candidates as are Doctors or Licentiates in Civil Law*, that are left by the Founder to the judgment and conscience of the electors.

7.—*An election to the office in 1743 disputed.*

The election to the vacant office took place on the 8th June 1743. Among the candidates no University Doctor or Licentiate in Civil Law professed to come either from within the College of St. Mary of the Nativity, or from within the University of Old Aberdeen. The candidate that obtained the majority of votes was JAMES CATANACH, Advocate in Aberdeen (that is, a Procurator before the Town and County Courts), who presented, in proof of his qualification as candidate, a Diploma of Marischal University for the Degree of Doctor of Laws. This diploma had been granted eight days previously, after examination, in presence of the Senatus Academicus, by David Vernor, LL.D. of the University, one of the Professors of Philosophy, who having, before his appointment as such, studied Law both in the University of Edinburgh and in the University of Glasgow, had, by the appointment of the Senatus Academicus made nineteen years previously, been also lecturing upon law to professional students in the University. The only other candidate proposed was CHARLES HAMILTON GORDON of Edinburgh, an Advocate (or Barrister before the Court of Session), who did not pretend to be a Graduate of any Faculty in any University; though he professed to be a Member of King's College and University, Old Aberdeen, in consequence of his having been a student there.

In the law proceedings that ensued, Catanach was supported by the majority of the Electors; he was opposed by Gordon.

8.—*On what grounds disputed—brief notice of decisions.*

From the beginning to the end of those proceedings—which were carried on first before the Court of Session, finally before the House of Lords—there was no dispute as to the fact of CATANACH having a majority of the legal electors. An attempt made at the election, by the minority, to raise a question on this point, was expressly abandoned by Gordon at an early stage of the cause.* So far as the election of Catanach was concerned, the dispute related solely to the question,—Whether, in his capacity of

* See page 7 of No. II. in Appendix A.

Candidate for an office instituted by the Charter of the College of St. Mary of the Nativity, he possessed the *indispensable* qualification required by the Founder?

NOW CATANACH did not pretend that he possessed this qualification in virtue of his being an Advocate or Procurator in Aberdeen. With what views he did come forward to be admitted to the office, may be learned authentically from the words of the Instrument of Protest he took on the day after his election, on finding himself refused admission, in consequence of some proceedings of Gordon's. He then appeared, as that document narrates:—"Having and holding in his hands a
 "DIPLOMA, signed by the Principal, Doctors, Professors, and
 "Masters of the University of the Marischal College of Aberdeen,
 "with the seal of the said University affixed thereto, creating and
 "ordaining the said James Catanach a DOCTOR OF THE LAWS, with
 "all the privileges thereto belonging, dated the 31st day of May
 "last; also, having and holding in his hands a PRESENTATION,
 "signed by Dr. James Gregorie, Professor," [and the other electors that constituted the majority, whose names are given,]
 "dated the 8th day of this instant month of June; whereby the
 "said James Catanach is elected to be Professor of Civil Law in
 "the University of the said King's College of Aberdeen." The protest, after an immaterial passage, goes on to claim his admission to the said Professorship, "*as being qualified in terms of the foundation of the said University [of King's College], by having received the foresaid Degree of Doctor of Laws, and as being duly and legally elected Civilist in the said University, by a majority of those [who are here described] legally entitled to vote.*" As will afterwards appear, *it was upon the same two grounds, and no other, that the House of Lords finally decided in his favour, and* "ORDERED that the Appellant Catanach be preferred to the said office accordingly."

In the COURT OF SESSION, Lord Kilkerran, the Ordinary in the cause, without giving any decision himself, remitted the question to the whole Court, who decided that Catanach did not possess the *indispensable* qualification, and who, after a renewed and more searching discussion, adhered to this decision; which, however, upon appeal, the HOUSE OF LORDS reversed, finding that Catanach did possess the qualification.

9.—*Why a circumstantial notice is necessary.*

In the decisions of the Court of Session and of the House of Lords and in all the discussions that preceded those decisions, the points that concern us are these two—First, Why the Court of Session held that Catanach, a Doctor of Laws in Marischal University, did not possess the *indispensable* qualification? Second, Why the House of Lords held that he did possess that qualification?

Before giving those decisions at length, we will, in order to counteract misrepresentations of the cause that have been published,* bring into view, more particularly than otherwise might be necessary, the various propositions maintained by each of the contending parties. By this means, we hope to elucidate the judgments of the Court of Session, and the final decision of the House of Lords, as well as to prevent a renewal of such misrepresentations. Those various propositions will be given, chiefly to serve as Heads of argument. We conceive that Details of argument are not much required for the purpose on hand. But, as the final decision of the House of Lords recognised the right of Marischal College and University to confer the Degrees that were called in question, we will endeavour the more particularly to state with distinctness all the propositions that were urged *against* that right, because—*This will make plain, that more than a hundred years ago, not only were the objections recently made to that right fully heard and solemnly decided against, but the University's Diploma for a Degree of Doctor was recognised as valid, by the highest Court of Law in the Kingdom.*

10.—*Some of the propositions adhered to throughout the Cause—others given up or modified.*

At the time when this action was raised, contending parties in Scotch Courts of Law were less tied down to state their pleas and facts at the outset of a cause, and to adhere to their statement when once made, than is now the practice. But though,

* See Medical Gazette, 5th March, 1841, pages 881-2. The then Editor was a son of a late Principal of King's College, and brother-in-law to a Professor in King's College. See also pages 30 and 31 of King's College Pamphlet, or Appendix E.

in the progress of this action, there were several grounds of argument abandoned, and though, up even to the final pleadings at the Bar of the House of Lords, each party seems to have felt himself at liberty to shift his position, yet through all the stages of the discussion, the chief propositions that affected the final decision were adhered to, on each side, without variation. Of this description were the following proposition of Catanach, and the next following three counter-propositions of Gordon.

11.—*Propositions adhered to throughout.*

CATANACH maintained :—

That his Diploma of LL.D. from Marischal College and University, which had been granted after a strict examination in Civil Law, was proof of his possessing the indispensable qualification.

GORDON'S three counter-propositions were these :—

1st.—*That Marischal College and University (which he persists in calling only a College, although it is named COLLEGIUM ET ACADEMIA in the original Charter, which was immediately ratified by the authority of Parliament), had been founded for teaching in Arts only, and had been authorized to confer Degrees in that Faculty only, and never had received legal authority to grant Degrees in Divinity, Laws, or Medicine.*

2nd.—*That, even if Marischal College and University had received legal authority to grant Degrees in Divinity, Laws, and Medicine, as well as in Arts, it could not yet exercise this authority in Laws, in consequence of its not possessing any Founded Professor in this Faculty, as it then possessed in the other three Faculties.*

3rd.—*That, even if Marischal College and University possessed legal power to confer Degrees in Civil Law, it had not conferred the Degree in question in a proper manner, or on a Candidate properly qualified to receive the Degree, but had conferred it only as a colorable and fraudulent qualification.*

CATANACH contested each of these three propositions, maintaining at great length the right of the University to confer

Degrees in all the customary Faculties, including Laws; and thus far there was no variation in the propositions maintained in the Court of Session, or in the House of Lords.

12.—*Explanation of the procedure in an appeal before the House of Lords.*

With regard to the House of Lords, it is of importance that the reader be aware that the first stage of an Appeal takes place thus: The Appellant introduces the cause by a paper, containing a summary of the facts, and also such pleas in law as are the grounds of his appeal. This paper, which is printed, is called the Appellant's CASE. The other party to the cause, the Respondent, also presents to the House his CASE, containing his account of the matter in dispute, and his pleas. These papers on both sides make up the first and preliminary stage. The hearing at the Bar of the House is the subsequent and essential stage. There, preparatory to the final decision, the whole cause is debated, and the reasons that each party prays judgment for are discussed by the Counsel on both sides.

13.—*The House of Lords decided a narrower question than the Court of Session did.*

There is another preliminary observation that will be serviceable as we go along. Catanach was admitted to possess a majority of legal votes. The chief question, therefore, that either the Court of Session, or the final Court of Appeal, had to consider *first*, was—Whether he possessed the *indispensable* qualification? The House of Lords, in deciding that he did possess that qualification, had scarce any other question to consider; whereas, the Court of Session, in deciding that Catanach did not possess the *indispensable* qualification, had several other questions to decide in consequence; such as—Whether Gordon was to be held duly qualified and duly elected? or, Whether there should be a new election? Now, it was chiefly the propositions relating to such other questions that varied at different stages of the cause; and it was chiefly, as we have already said, the propositions that

were constant, that proved to be the grounds of the judgment of the House of Lords. The necessity for our specifying such propositions as were abandoned before the cause came to a final hearing, at the Bar of the House of Lords, has arisen from those propositions having been misrepresented as being the real foundation of that judgment.

14.—*Additional propositions in the Court of Session, including several given up or modified.*

While stating the additional propositions on both sides before the Court of Session, we are obliged to refer frequently to the final state of argument before the House of Lords; which, however, for the ease of the reader, will be distinctly stated apart, after we give the Interlocutors of the Court of Session, and before we give the final judgment of the House of Lords.

All the propositions that came to be given up or modified, will be distinguished by small type. Such of them as have one cross (×) at the beginning and another at the end were mentioned in the House of Lords, in the printed CASE of the party, but not at the Bar of the House; such of them as have two crosses (× ×) were not mentioned either in the printed CASE or at the Bar—that is, were not brought by the party under the notice of the House of Lords at all; such of them as have no cross prefixed to them underwent modification of some kind afterwards, as explained specially under each of such unmarked propositions.

Keeping these preliminary observations in view, we proceed to give additional propositions in favour of Catanach, being chiefly such as were given up or modified, before the cause came to a final hearing at the Bar of the House of Lords.

I.—ADDITIONAL PROPOSITIONS FOR CATANACH.

CATANACH attempted in the Court of Session, unavailingly, to fall back, in defence of his claims against the attacks of Gordon, on two propositions that were abandoned, as untenable, by the eminent Counsel that conducted his appeal.

One of those two propositions was founded upon the observation,

that, so far as appeared from the scanty records of King's College and University, Old Aberdeen (which were deficient for about a hundred years between the date of the Reformation from Popery and the present action), the *indispensable* qualification required by the Founder had been neglected at many elections since the Reformation. CATANACH maintained :—

× That *if, in consequence*, the indispensable qualification had gone into disuse, there was no obstacle to either candidate being legally voted for, and he himself was entitled, on the ground of his having gained a majority of legal votes, to be held as duly elected. ×

Catanach, however, declined, at the outset of his cause in the Court of Session, to admit that the indispensable qualification had gone into disuse, and although afterwards he continued to say, that, *supposing* it had, he was entitled to be held as duly elected, yet in his last paper before the Court of Session, we find him expressly maintaining that no such irregularities as had undoubtedly taken place in previous elections to the office could constitute legal desuetude.

In Catanach's printed CASE before the House of Lords, he still maintains that he alone possesses the qualification rendered *indispensable* by the Founder's Charter, but, if this qualification be no longer *indispensable*, still, as a DOCTOR OF LAWS, he is qualified to perform the duties of the office, and, as having been voted for by a majority of the legal electors (who are constituted by the Charter the sole judges of the *recommendatory* qualifications), he is entitled to be admitted to the office. As to the subsequent proceedings at the Bar of the House, it would be a statement short of the fact, to say, merely that Catanach's Counsel *tacitly abandoned* every argument founded upon desuetude. There they took up this incompatible ground :—"Our client," in so many words they said, "has the indispensable qualification ; but if not, the only consequence must be *a new election*"—thus renouncing every advantage that their client ever claimed under the plea of desuetude.

It is worthy of observation, that so long as Catanach hypothetically rested an argument on desuetude, and notwithstanding a previous decision of the Court of Session finding him not duly qualified to be elected, his prayer to that Court was, not that he should be found *both duly qualified to be elected and*

duly elected, as the House of Lords afterwards decided he was, but *only* that he should be found *duly elected*.

The other proposition that Catanach abandoned demands from us more than usual attention, in consequence of our assailants pretending (as will be seen afterwards)* that this proposition was a principal reason of the reversal of judgment by the House of Lords ; albeit, Catanach never stated it as a ground of appeal.

In bringing forward this other proposition before the Court of Session, Catanach proceeded on the assumptions, that there had been no desuetude in regard to the *indispensable* qualification, and that his Diploma of LL.D. from Marischal University was proof of his possessing that qualification. Evidently intending to set up a new outwork in 'defence of the University, he maintained :—

× × That since Marischal University had been accustomed to exercise the right of conferring Degrees in Laws, and since its Diplomas of Doctor of Laws had been received *in England* as evidence of qualification for certain offices of emolument such as made this degree indispensable to the holders, the right that had been thus exercised could not be called in question, in a process where the University was not present, as a party. × ×

GORDON contended, that any Candidate producing, as a qualification for the office, a Diploma in Laws from what professed to be a University, was bound to prove, if required, that the alleged University was legally authorised to confer the Degree, and answered:—

× That the longest alleged practice of conferring Degrees in Laws, by Marischal University, was for the inadequate period of sixteen years prior to the present action, and that no such Degree from that University had ever qualified for an office of emolument *in Scotland*. ×

In the Court of Session, CATANACH never gave up defending the rights of the University, even while he thus contended that he was not bound to do so ; but, in the House of Lords, no plea that he was not bound to do so *ever was offered by him as a ground of appeal against the judgment of the Court of Session*. In GORDON's printed CASE, however, mention is made of Catanach's

* See afterwards, § 22, II., page 32.

old plea as being no objection to another plea of his own,* and two answers are given, to shew that it is none.

FARTHER, ON THE PART OF GORDON, there was a ground of objection against CATANACH, taken before the Court of Session, but much modified, if not as good as abandoned, before the House of Lords.

GORDON, before the Court of Session, objected vehemently and with coarse personality :—

× That Catanach did not possess the *recommendatory* qualifications. ×

CATANACH, while vindicating himself in this respect, answered :—

That the *recommendatory* qualifications were left by the Founder of the College of St. Mary of the Nativity, to be judged of by the Electors, whose decision was not subject to review by any Court of Law, provided the Candidate had the *indispensable* qualification.

Gordon's proposition against Catanach's *recommendatory* qualifications, although adhered to in Gordon's printed CASE before the House of Lords, was tacitly given up by his Counsel at the Bar of the House, except so far as his arguments in favour of it were made available in favour of another proposition of his, already stated,† namely, That Catanach's degree was not conferred in a proper manner, or on a Candidate properly qualified.

CATANACH maintained, finally :—

That he, as a University Doctor in Civil as well as in Canon Law, so made after strict examination in Civil Law, was qualified to be elected under the Founder's Charter, which expressly declared every person without this qualification—or at least without being a University Licentiate, so made after strict examination, in the same Faculty—to be utterly ineligible and inadmissable.

We now go on to the propositions that related more especially to the claims of Gordon.

* Embracing the 1st and 2d of his Propositions adhered to throughout. See page 15.

† See page 15.

II.—PROPOSITIONS RELATING TO GORDON.

GORDON, in discussing the *indispensable* qualification admitted :—

That this qualification was in force.

And, from the beginning of the cause in the Court of Session, to the end of it at the Bar of the House of Lords, he adhered to that proposition. He contended, nevertheless :—

That he, as an Advocate at the Bar of the Court of Session, was possessed of this qualification, since, under the altered circumstances and constitution of the country after the Reformation from Popery, an Advocate, in virtue of his trial in Civil Law by the Faculty of Advocates, was a Licentiate in Civil Law, so made after strict examination, and, in virtue of his being admitted by the Court of Session, subsequent to such examination, to practice at their Bar, was equal, if not superior to a Doctor in Civil Law.

This proposition he maintained under two inconsistent forms before the Court of Session.

1st.—× × As if *either* a University Graduate in Civil Law, or an Edinburgh Advocate, were qualified under the Charter. × ×

2nd, As if *only* an Advocate at the Edinburgh Bar could possess the qualification.

The first form of the proposition, he did not carry to the House of Lords. The second form he persisted in to the end of the cause at the Bar of the House of Lords, and, in support of it, he went the length of maintaining :—

That amidst the changes that attended the Reformation there had been a cessation, in the Universities of Scotland, of the practice of conferring such degrees in Civil Law as are alluded to in the Founder's Charter, where it is implied that a Doctor in Civil Law had undergone a curriculum of study in that Faculty, had passed through the lowest Degree of Bachelor, and had obtained, after strict examination, the next Degree of Licentiate, before being received into his public examination as a Candidate for the Doctorate.

That it was after such ancient degrees in Civil Law had ceased to be conferred, that Marischal College and University was founded and erected, and consequently it never possessed at all, in regard to such Degrees, the power that the Universities of Papal origin possessed prior to the Reformation.

That the Degree of Doctor of Laws, now but rarely granted in the Universities of Scotland, did not constitute therefore a due qualification under the Founder's Charter.

Bringing all these modifications together into one brief proposition, what GORDON finally maintained in the Court of Session, and persisted in before the House of Lords, in regard to the *indispensable* qualification, was :—

That an Advocate at the Bar of the Court of Session now superseded the University Doctor in Civil Law in Scotland, *where NO University could now confer such a Degree in Civil Law as would qualify the Graduate to be a Candidate for the Founder's Professorship in Civil Law.*

CATANACH, besides contesting this proposition of Gordon's, and its various modifications, maintained from the beginning of the cause in the Court of Session to the end of it in the House of Lords :—

That, if the *indispensable* qualification is in force at all, no Court of Law had a right to depart from the Founder's plain meaning, as expressed in his Charter.

GORDON maintained, finally :—

That he, as the only qualified candidate voted for, must be held to be not only duly qualified, but duly elected.

The following are the two Interlocutors of the COURT OF SESSION appealed against by Catanach.

15.—*Interlocutors of the Court of Session.*

[Court of Session,] “20th July, 1744.

“Upon the report of the Lord Kilkerran, Ordinary, THE LORDS
“FIND :

(1.). “That JAMES CATANACH, Advocate of Aberdeen, was
“NOT DULY QUALIFIED TO BE ELECTED as Professor of Civil
“Law in the King's College of Old Aberdeen; and find

(2.) “That Mr. CHARLES HAMILTON GORDON WAS DULY
“QUALIFIED TO BE ELECTED into the said office; and find

(3.) “That the said Mr. Charles Hamilton Gordon was
“duly elected, and prefer him to the said office; and
“decern and declare accordingly.”

[Court of Session,] “4th December, 1744.

“THE LORDS having considered this petition [that is, the reclaiming petition of Catanach], with the answers made thereto, ADHERE to their former Interlocutor, and REFUSE the desire of the Bill.”

16.—*Import of those Interlocutors.*

THE COURT OF SESSION thus held, that a Candidate undoubtedly voted for by a majority of the Electors was not entitled to be admitted to the office: *the legally elected Civilist must possess the indispensable qualification.* Had the Court stopped short with the first finding (which is to the effect, that a Diploma of Doctor of Laws from Marischal University was not evidence of a Candidate's possessing the *indispensable* qualification), we would have been left in ignorance which of the three following reasons, urged by Gordon, had been sustained by the Court; whether it held:—

1st, That Marischal College and University possessed no authority to grant Degrees in Civil Law; or

2nd, That, being possessed of such authority, it had not conferred the Degree in question in a proper manner; or

3d, That *NEITHER Marischal College and University, NOR ANY OTHER University in Scotland*, had authority to grant Degrees in Civil Law, or at least such a Degree as would now qualify a candidate for the Professorship; an Advocate at the Bar of the Court of Session being now the only description of person possessed of the *indispensable* qualification.

But the second finding (which was to the effect that *an Advocate*, admitted by their Lordships to practice at their Bar, *possessed the indispensable qualification* of a candidate for the Professorship, *without his having any Degree of any University whatsoever*) proves that the judgment rested upon the third of the foregoing reasons, and neither upon the first nor the second; for when the Court had come to the conclusion that *no University Degree was necessary*, there was no question before it, either as to the right of Marischal University to confer any Degree in Civil Law, or as to its manner of conferring such a Degree—

insomuch that, had the decision of the COURT OF SESSION been affirmed by the HOUSE OF LORDS, instead of being reversed, it is plain that Marischal University would not, in respect of its right of conferring Degrees, have been thereby placed on a different footing from any other University in Scotland. But, if, while the Court held (as before) that a Diploma of Doctor of Laws from Marischal University was not evidence of a Candidate's possessing the *indispensable* qualification, it had also declared, that Gordon was not possessed of this qualification either, and that neither Candidate was duly elected—*then* indeed it might have been said that there was, in the judgment of the Court of Session, a flaw in Catanach's Diploma, whether on account of the first or on account of the second of the above three reasons.

We now turn to attend to the state of argument at the Bar of the House of Lords.

17.—*Propositions urged at the Bar of the House of Lords.*

Setting aside now, as rubbish and dust—only covering and obscuring the cause—all the propositions that were more or less insisted upon in any of the prior stages of the discussion, but abandoned and unheard of as grounds of argument at the Bar of the House of Lords—we will here bring together the various propositions that were urged by each party, at that final hearing. The following are such of those propositions as related to the *indispensable* qualification:—

I.—RELATING TO THE INDISPENSABLE QUALIFICATION.

FOR CATANACH.

I.—That the *recommendatory* qualifications were left by the Founder to be judged of by the Electors, whose decision was not subject to review by any Court of Law, provided the candidate had the *indispensable* qualification.

II.—That *the indispensable qualification continued to be in force, in the plain meaning of the Founder as expressed in his Charter*, and that no Court of Law had authority to depart from this plain meaning, and sub-

stitute, for his express restriction, any other, on the ground of its being equivalent. Accordingly,

III. — *That Catanach's Diploma of LL.D. from Marischal College and University, which was granted after strict examination in Civil Law, was proof of his possessing the indispensable qualification.*

FOR GORDON.

I.—*That the indispensable qualification was in force, but was not possessed by Catanach.*

II.—That NO University in Scotland could now confer such a Degree in Civil Law, as would qualify for the Founder's Professorship in Civil Law.

III.—That, *much less could Marischal University be held to have conferred such a Degree on Catanach, for three reasons; first, because it had never been legally authorised; second, because it had not yet a Founded Professor in the Faculty of Laws; third, because it had not conferred the Degree in a proper manner, or on a properly qualified Candidate.*

IV.—That *the indispensable qualification was possessed by Gordon, in virtue of his being an Advocate at the Bar of the Court of Session.*

II.—RELATING TO OTHER POINTS.

In order to complete our account of the state of argument at the Bar of the House of Lords, it remains only to relate, that each party, in contemplating the possibility of Catanach's Diploma of LL.D. from Marischal University being declared as not a valid proof of his possessing the *indispensable* qualification, urged upon the House a different consequence, in the case of its coming to such a decision.

FOR CATANACH.

That a new election to the office could be the only consequence.

FOR GORDON.

That he, as the only qualified candidate voted for, must be held to be not only duly qualified, but duly elected.

18.—*Final Decision of the House of Lords.*

The following is the Decision :—

“ House of Lords, 11th April, 1745.

“ After hearing Counsel, as well yesterday as this day, upon the Petition and Appeal of JAMES CATANACH, DOCTOR OF LAWS, and Advocate in Aberdeen, &c. &c.*

“ IT IS ORDAINED AND ADJUDGED BY THE LORDS SPIRITUAL AND TEMPORAL IN PARLIAMENT ASSEMBLED, That THE SAID INTERLOCUTORS complained of in the said appeal, be, and the same ARE, HEREBY REVERSED; AND IT IS HEREBY FURTHER ADJUDGED, that the Appellant,

JAMES CATANACH,
WAS DULY QUALIFIED TO BE ELECTED
a Professor of Civil Laws in the King's College of Aberdeen,
AND WAS DULY ELECTED;
and IT IS ALSO ORDERED that the appellant Catanach be preferred to the said office accordingly.”

19.—*Import of the Decision.*

This decision implies that there was no valid objection to Catanach's Diploma of LL.D. from Marischal College and University, on any one of the three following grounds that were insisted upon by Gordon :—

1st, None on the ground of the Degree being conferred in an improper manner, or on an improper Candidate.

* The following is the preamble to the judgment at length :—“ After hearing Counsel, as well yesterday as this day, upon the Petition and appeal of James Catanach, Doctor of Laws, and Advocate in Aberdeen, and of Mr. Alexander Burnet, Subprincipal, Dr. James Gregory, Professor of Medicine, both of the King's College of Old Aberdeen, and Mr. Alexander Rait, Mr. Daniel Braidfoot, and Mr. John Chalmers, Regents, or Professors and Teachers in the said College, complaining of an Interlocutor of the Lords of Session in Scotland, of the 20th of July, 1744, and also of an Interlocutor of the 4th of December last, whereby they adhered to their former Interlocutor, made on behalf of Charles Hamilton Gordon, Advocate at Edinburgh, and praying that the same might be reversed, and that this House would be pleased to afford the Appellants such other relief as to their Lordships, in their great wisdom, should seem proper : as also, upon the answer of the said Charles Hamilton Gordon, put in to the said Appeal, and due consideration had, of what was offered on either side in this cause : It is ordained and adjudged,” &c. &c. (as above.)

2nd, None on the ground of Marischal College and University not possessing a Founded Professor in the Faculty of Laws.

3rd, None on the ground of Marischal College and University possessing no power to confer degrees in Divinity, Laws, and Medicine.

For let it be observed, that although it was in regard only to the Faculty of Laws, that the question affecting the right of Marischal University to confer any degree except in Arts arose, yet the pleas negatived by the decision went much farther. It was as follows that GORDON urged his objection in his *first* printed paper :—

“That the Marischal College *had no power to confer the Degree of Doctor of any kind, FAR LESS of a Professor of Law*, there being no such thing in the Foundation of that College as a Law profession.”*

As follows, in his *second* paper :—

“Marischal College *had no power to confer this Degree [Catanach’s], nor indeed any Degree above that of Master of Arts.*”†

As follows, in his *third and last* printed paper :—

“That the Marischal College was erected *only for the study of the Liberal Arts*, without any Foundation for the profession of Divinity, Law, or Physick ; *therefore, it never could confer Degrees in these Sciences,*” [and] “*ESPECIALLY*” [in Civil Law,] “*as there is at this day no Foundation for a Professor of Civil Law in this College,*” [while there are foundations for Professors in Divinity and Medicine, as well as in Arts.]‡

In fact, the question put to issue, so far as Marischal University was concerned was—Whether, beyond degrees in Arts

* Page 10 of No. II. in Appendix B. See also, in confirmation, pages 5—11, 13, 15—18, of the same No. II.

† Page 17 of No. IV. in Appendix B.

‡ Gordon’s Case, quoted by us afterwards, see § 22, II., page 34 ; see also No. VII. Appendix B.

(where its power to confer Degrees was admitted on all hands), it had, in the very words of our assailants in King's College and University, "*the power of conferring Degrees in Divinity, Laws, and Medicine?*" Gordon, in his first printed paper, has a long section of discussion, prefaced by the following observations:—“As Mr. Catanach's plea to become a Professor of the Civil Law in this University [King's College] does singly depend on the validity of that Diploma which he mendicated in manner above mentioned from the Marischal College of Aberdeen, it is material to be enquired—*What powers or authority this Marischal College are vested with, that should entitle them to confer the Degree of Doctor or Licentiate, in any of the Faculties of Theology, Law, or Physic?*”* In the form that the question came before the House of Lords, there was no difference made between the Faculty of Laws and the Faculties of Divinity and Medicine, except that the right to confer Degrees was represented, as having been more recently brought into exercise, and as being in itself more questionable, in the case of the Faculty of Laws, than in the case of those other two Faculties.

20.—*Grounds of the Judgment.*

According to the most careful inquiries we have been able to make,† it would seem that no Notes of the grounds of the judgment ever were prepared by Lord Chancellor Hardwicke; certainly, at least, no such Notes by him are to be found among the documents or in the place where they were to be expected, if he had prepared any. But so simple and clear is the formal decision of the House of Lords, as to require no reasons beyond those that are apparent on the face of the document. The substantial point in the decision is the ORDER of the House, that the Appellant Catanach be preferred to the office of Professor of Civil Law in King's College; and the twofold reason given for this order is the JUDGMENT that the Appellant James Catanach was *duly qualified to be elected*, and was *duly elected*; that is to say, (1) was duly qualified *upon the only ground that his Counsel at the Bar of the House pretended that Catanach was qualified, namely, in virtue of his holding a Degree of Doctor of*

* Page 11 of No. II. in Appendix B.

† See Appendix D.

Laws from Marischal College and University, granted after strict examination in Civil Law, and (2) was duly elected, upon the unquestioned ground of his having been voted for by a majority of the legal electors.

21.—*The House of Lords ordered Catanach to be preferred to the Office, on the same Grounds that he first claimed Admission upon.*

Thus have we endeavoured to give a faithful account of the Catanach Cause, from the 9th of June 1743, the day after Catanach's election, when, holding in his hands, in formal protest, a Diploma of Doctor of Laws from Marischal University, and a Presentation from the majority of the legal electors, he claimed admission to the office of Civilist in King's College and University, "as being qualified in terms of the foundation of the said University, by having received the foresaid Degree of Doctor of Laws, and as being duly and legally elected Civilist in the said University, by a majority of those legally entitled to vote"—until the 11th of April, 1745, when the HOUSE OF LORDS "ADJUDGED that the Appellant James Catanach was duly qualified to be elected a Professor of Civil Laws in King's College of Aberdeen, and was duly elected," and "ORDERED that the Appellant Catanach be preferred to the said office accordingly."

22.—*Three Objections made to the Decision.*

We have now to enter on the less agreeable task of examining by what objections our assailants endeavour to evade the force of a decision so plainly in our favour. THREE claim our notice, as being explicit as well as important.

The FIRST of their objections that we shall examine is founded on the practice, in regard to the indispensable qualification, *alleged by them* to have been observed at elections to the office of Civilist in King's College, after the date of the decision of the House of Lords.

The SECOND is founded on a reason of the judgment, *alleged by them* to have been assigned by the House of Lords.

The THIRD objection consists of an inference *drawn by them* from an assumption.

FIRST, AS TO THE ALLEGED PRACTICE AFTER THE DECISION.

So plain a decision as the House of Lords gave in the Catanach Cause demands no curious inquiry into the views that were entertained of that decision by the persons most interested in ascertaining its true import; but in consequence of representations by our assailants to the effect that such persons (as far as regards the indispensable qualification) acted upon the decision, according to another than its plain import, it is necessary for us to give a brief statement of what the practice really has been.

What practice was observed, in consequence of the decision, will best appear from the proceedings at the next three elections, which took place during the fifty years that followed the election of Catanach. The conduct of all that came forward as Candidates proves that the *indispensable* qualification of the Founder was held to be in force. Each of the persons elected, as well as the competitor in the only case where there was a competitor, qualified himself to be legally voted for and admitted, by becoming a University Graduate in Laws.

The first vacancy occurred towards the end of the year 1760, upon the death of Catanach. Two Candidates were competitors. Neither of them, at the time of Catanach's death, possessed a Degree in Laws; but so diligent were they in making application for this Academical honour, that within eleven days both of them had become Graduates. The successful Candidate was David Dalrymple, Advocate at the Bar of the Court of Session, then Sheriff-Depute of Aberdeenshire (being the first appointed after the abolition of the hereditary jurisdiction), and LL.D. of the University of Edinburgh, who afterwards became one of the Judges of the Court of Session. His competitor was William Thom, Advocate in Aberdeen, and LL.B. of Marischal College and University. Dalrymple seems to have retired from the office in 1765 under an arrangement with Thom, who then, being still LL.B. as before, came to be elected to the office without a competitor, and subsequently was made LL.D. by King's College and University. The third election

seems likewise to have taken place under an arrangement, which Thom was able to effect in favour of a nephew. The person appointed in consequence was Alexander Dauney, Advocate in Aberdeen, who was elected to the office, jointly with Thom, on the 9th of January 1793, having on the day previous obtained the Degree of LL.D. from King's College and University.

We are aware that the mere tradition of a society or a community is not always a safe interpretation of the legal effect of a decision. But, in the present case, the persons whose proceedings we have cited were Lawyers by profession, and had both occasion and opportunity for ascertaining accurately the true import of the decision. Dalrymple had resided in Old Aberdeen, and there had mixed enough in the society of the Professors of King's College to form a predominant party in his favour; neither could he fail to obtain, for his own guidance, such accurate information respecting the purport of the decision, as Parliament House in Edinburgh could then still afford. Thom was a Nephew of Catanach's, and was left by Catanach (who had no family of his own), heir to his property, and successor to his business and all his papers. He had been clerk to Catanach, and in that capacity wrote and witnessed the Instrument of Catanach's admission. As if this position were not opportunity enough to ensure his thorough acquaintance with the decision of the House of Lords in his Uncle's case, he also, in 1760, upon failing in his election, (having a lawsuit on many points of detail with Dalrymple, which he carried to the Court of Session, and thence to the House of Lords), consulted, as Counsel, his Uncle's old antagonist, Charles Hamilton Gordon. The next Civilist, Dauney, stood in the same relation to Thom as Thom did to Catanach.

It is true that on the fourth and last election, forty years afterwards, namely, in the year 1833, an apparent illegality took place, inasmuch as the present Civilist was not a Graduate in Laws, either at the time of his election or at the time of his admission, nor until near a twelvemonth after his admission, when the honorary Degree of LL.D. was conferred on him by Marischal College and University, his *Alma Mater*. There was no other Candidate voted for at his election.

Thus, in the four elections to the office of Civilist that have

taken place during the one hundred and ten years that have elapsed since the election of Catanach, it was only at the first that there was a competitor voted for, and in that election the successful candidate was LL.D. of the University of Edinburgh; and it was only at the very last where lapse of time seems to have brought back, in regard to the Founder's indispensable qualification, the neglect that was too common before the decision.

Such are the facts as to the practice after the decision. The practice before the decision, lax as it was admitted to be, need not be gone into here.

Without the superfluity of any comment, the following is the representation that our opponents have been pleased to make of those facts.

“*Candidates who had not the Degree of LL.D. have, both before and since that time, been elected to the same Chair, without the validity of the election being called in question by the other competitors; a clear proof that the Degree was not considered an indispensable requisite.*”

We now proceed to the next Objection of our assailants, namely:—

SECOND, A REASON OF THE JUDGMENT, ALLEGED TO HAVE BEEN ASSIGNED BY THE HOUSE OF LORDS.

This reason of the judgment (as printed by our assailants, under marks of quotation and partly in *italics*) is as follows:—

“That Marischal College had been used to confer the Degree of Doctor of the Civil Law; therefore—*Its powers cannot be called in question in a suit to which the College is not a party.*”

We proceed to make an Extract from their Pamphlet, in order to show how they introduce that reason of the judgment that they allege was assigned by the House of Lords.—In presenting this extract, it is proper to apprise the reader that the part of it that we distinguish by LARGE CAPITALS has been brought forward by our assailants, without their having produced the slightest evidence in support of that part. As to the rest of the extract, we will presently trace the evidence that it rests upon. Here is the extract:—

“THOUGH GORDON assigned as a reason for the disqualification

of Catanach, ‘That Marischal College was erected only for the study of the Liberal Arts, without any foundation for the Professions of Divinity, Law, or Physick; therefore, it never could confer Degrees in these Sciences; YET IT WAS GIVEN AND ACCEPTED BY THE COURT, AS A SUFFICIENT ANSWER, ‘That Marischal College had been used to confer the Degree of Doctor of the Civil Law; therefore, its powers cannot be called in question in a suit to which the College is not a party.’ ”*

As to the unnamed party that gave the “sufficient answer,” any reader would at once assume that CATANACH was that party; nobody could suppose either that GORDON both “assigned a reason for the disqualification of Catanach” and answered it, or that THE COURT both gave the “sufficient answer” and accepted it; yet (as will be seen in detail presently) CATANACH did not give the said “sufficient answer,” nor any part of it, nor any words of a like purport, during the whole course of his Appeal before the House of Lords. The truth is, that the matter of the alleged reason of the judgment was originally an argument dwelt upon by him in the Court of Session, but unsuccessfully, and ever after leaving that Court quite abandoned by him.

In the Pamphlet, the paragraph that the above extract is taken from has, at the end of it, a reference, by a foot note, to the printed CASES before the House of Lords. Those CASES, it has already been explained, consist of two documents; the Appellant’s Case and the Respondent’s. *Now, in the CASE of Catanach the Appellant, there is no statement of fact, and no plea corresponding to the alleged reason of the judgment;* and not only so, but Catanach there defends the right of Marischal University to confer Degrees in Civil Law, on the basis of Charter and Act of Parliament, without the slightest hint of prescriptive right having rendered such a line of defence unnecessary, in the absence of the University, as a party. But if we turn to the printed CASE *of Gordon the Respondent*, we do *there* find what seems to be a source (and indeed the Pamphlet affords us no trace of any other source) of the above extract, except so much of it as we have distinguished by LARGE CAPITALS. The correspondence of words thus far will be seen by any person that examines carefully the following Extract (which we present

* Page 31 of their Pamphlet. See also Appendix E, where we have endeavoured to render the context intelligible.

entire) from GORDON'S printed CASE, where the *italics* in the paragraph headed REASON FOURTH, and in the paragraph headed OBJECTION, make up nearly the whole of our foregoing Extract from their Pamphlet, *except so much as we have printed in LARGE CAPITALS* :—

EXTRACT FROM THE CONCLUSION OF GORDON THE RESPONDENT'S CASE.

[After giving three reasons against Catanach's Claims, Gordon goes on as follows:—]

“REASON FOURTH.—For that the *Marischal College was erected only for the study of the liberal Arts, without any Foundation for the professions of Divinity, Law, or Physick ; therefore, it never could confer Degrees in these Sciences, especially as there is at this day no Foundation for a Professor of Civil Law in this College.*

“OBJECTION.—The *Marischal College have been used to confer the Degree of Doctor of the Civil Law, and therefore their powers cannot be called in question in a suit to which the College is not a party.*

“ANSWER I.—The Foundation of this College is of a date after the Reformation in Scotland ; after the period that the Degrees of a Doctor in Divinity, or Law, as well as the inferior Degrees in those Sciences, came to be disused in all the Universities in Scotland, and after the privileges incident to such Degrees before the Reformation had ceased.

“ANSWER II.—*It is not said that this College created a Doctor of the Civil law, earlier than the year 1727 ; and the only instances since that period are of Doctors created, without study or tryal, by a Diploma given per saltum, and no privilege has ever been claimed or enjoyed in Scotland under such Diploma granted by the Marischal College.*”

Our assailants have evidently, in the passage we have quoted from their Pamphlet, taken from GORDON'S CASE so much of the above REASON FOURTH* as we have printed in italics, and likewise the whole of the above OBJECTION, which, however, is given by them so as to seem to be taken from a document or statement of Gordon's opponent.

As to this OBJECTION, let us observe that it is not one offered

*As to their quotation from REASON FOURTH—it would have been fairer in our assailants to have quoted the whole of that Reason, inasmuch as anybody might then have seen that Gordon objected to Degrees in Laws being granted by Marischal University, for at least one reason that was not applicable to Degrees in Divinity or in Medicine.

by Gordon to his own Reason Fourth, but merely one that he supposes might be offered, and that he tries to expose as unfounded. Gordon probably both stated and answered the Objection, in order to prevent Catanach's renewing, at the Bar of the House of Lords, a plea formerly urged by Catanach, in vain, before the Court of Session. Certain at least is this, that Gordon, so far from having stated the Objection as "a sufficient answer" to his own Reason Fourth, gave it as a most insufficient answer.

So much for the evidence of the CASES, which our assailants refer us to. These CASES do not afford the slightest evidence that Catanach or anybody else gave the Objection as "a sufficient answer" to Gordon's Reason Fourth; much less that the words of it were adopted, or the purport of it affirmed, by the House of Lords as a reason of the judgment.

That such evidence had been sought for, but not found, by our assailants, in the printed Reports of Scotch Appeals before the House of Lords, is made quite evident by a statement of their own. The following quotation is taken from the same paragraph of their pamphlet, as the other quotation that we have dwelt upon :—

"In the printed Reports of the Decisions of the House of Lords, *the reasons for judgment are not given*; it does not seem at that time to have been the custom to do so."

Mr. Paton's letters in Appendix D make it next to certain that no notes of reasons for the judgment were prepared, by Lord Hardwicke, in the present case.

The difficulty we have, is to understand how our assailants—*having confessedly failed, like ourselves after a more thorough search, to find the slightest record of any reason of the judgment*—should have dared to state any.

It remains to enquire, Whether there is evidence of the Objection having been offered by Catanach as a ground of Appeal to the House of Lords and having been adopted as a ground of the judgment by that House—to be found anywhere else than in the CASES, and in the printed Reports seen by our assailants?

As to Catanach's having submitted this ground of Appeal to the House of Lords, if it were a fact, it must (since it is not found in his CASE), appear in the Lord Chancellor's Notes of

the hearing at the Bar, which are extant, and have been published since the date of the Pamphlet of our assailants.* Those Notes shew the reverse : they establish that Catanach's Counsel never urged the OBJECTION there; proving that CATANACH NEVER ONCE MADE THE OBJECTION A GROUND OF APPEAL TO THE HOUSE OF LORDS. The same Notes also show that Gordon's Counsel did not touch upon this topic in the discussion at the Bar of the House. On the contrary, all the arguments there in favour of the right of the University, and all the arguments there against that right, were given as if there was no such plea to aid the defence or to impede the attack.

As to the House of Lords ever having given the particular Reason of the judgment that we have quoted from the Pamphlet of our assailants—WE DENOUNCE THE WHOLE STORY AS THE MEREST FICTION.

How it was that our assailants came by *the words* of the alleged reason of the judgment, we have traced, by the aid of their own reference, to GORDON'S printed CASE; and there we do find *those words*; but upon what evidence they have alleged that those words, or even any other words of like import, *were pronounced by the House of Lords as a reason of the judgment*—we hope they will explain : we cannot.

But supposing their alleged reason of the judgment had been genuine, there would still be something else for our assailants to explain. The import of that fictitious reason we understand to be, that a certain University Degree being an indispensable qualification to the vacant office then in dispute, that Catanach being possessed of a Diploma from Marischal University conferring upon him the requisite Degree, and that this University having been in the established usage of conferring similar Degrees *for the alleged period of sixteen years*,—the House of Lords held, on the evidence of that University's mere Diploma, that Catanach possessed the requisite Degree, and was qualified accordingly to be elected; deciding in substance, that no party whatever could refuse to receive as valid a Diploma of Marischal University, at least until such time as the powers actually exercised by that University be formally reduced in some action before the Queen's Courts of Law, wherein the

* See Appendix, C.

University itself must appear as its own defender. Why then do they attack us by a Pamphlet, when, according to the fictitious ground of the judgment, which they found upon, the only mode of attack by them that can be effectual, is by raising an action of Declarator against us before the Court of Session, in order to reduce the actually exercised rights of this University? If (according to their own account, however short it is of the truth), every person, and every corporation, or other public authority, was in 1743, and has continued ever since, bound, by the decision of the highest Court of Law in the Kingdom, to receive, unquestioned, a Diploma of Marischal University, whensoever a University Diploma is evidence of a legal qualification, what has led our assailants to give such a contradiction of themselves as their statement, that “The University and King’s College is the only “Institution in Aberdeen which has a legal power of granting “Degrees in Medicine?”

The next and last Objection we have to combat rests on what our assailants do not even allege to be a fact.

THIRD, AN INFERENCE OF OUR ASSAILANTS FROM AN ASSUMPTION.

The inference they draw is intended to shew that Catanach might have been held to be duly qualified to be elected, not because he was a legal Doctor of Laws, but because neither this degree nor any other was requisite, or at least was requisite till a twelvemonth after admission. From their dwelling on the fictitious reason of the judgment, it would seem as if our assailants conceive that a Diploma held somehow to be valid, was necessary to a legal candidate. From their attempt that we are now going to consider, it would seem as if they also conceive that no Diploma whatever was necessary. Indeed, it is not easy to read their Pamphlet with care, without observing, expressed there, conceptions such as would be repugnant to each other in the minds of almost all other educated men, which yet lie there, quietly, side by side, like a rat and a cat in the popular exhibition of a Happy Family.

From the known circumstance, that the Degree of Licentiate had gone out of fashion in the Scotch Universities, as a Degree intermediate between the Doctor’s and the Bachelor’s, they assume, with much probability, that a Diploma for a Licentiate’s

Degree had ceased to be presented as evidence of a Candidate's possessing the indispensable qualification. Admitting their assumption, a manifest consequence would be, either that the Degree of Doctor in Civil Law, (not indeed conferred with less of strict examination than was required for the next inferior Degree of Licentiate), remained practically the sole indispensable qualification, or that there continued to be an alternative Degree instead of the Licentiate's—namely, the next inferior Degree of Bachelor (not indeed conferred without less of strict examination than was required for the next superior Degree of Licentiate; for the examination, provided for by the Founder in the case of a Licentiate, appears to us an essential point). No mere inference or supposition of ours is it that a Bachelor's Degree would naturally come to be regarded as occupying the place of a Licentiate's. At the very next election after Catanach's, a Bachelor's University Diploma in Laws was (as we have seen, page 30) presented by a Candidate, in evidence of his possessing the indispensable qualification. This diploma, in an action at law that arose out of the election, passed unchallenged, where every other point seems to have been challenged. Although at this election the Candidate alluded to failed, yet at the next he succeeded, presenting still the same Diploma.

But according to our assailants, too, there still remained an alternative, though a different one.* They infer, that the qualification indispensable to every Candidate for the office has thus come to be, that *he must, at his election or admission, either be a Doctor in Civil law—or have no Degree at all!* This very original inference of theirs, they insinuate, with what art they are masters of, was probably an inference of Lord Chancellor Hardwicke's too, and also the reason of the House of Lords deciding that Catanach was duly qualified to be elected; not on account of the Diploma whose validity our assailants assert the House would not suffer to be called in question, but *because No Degree at all had thus become as good a qualification, under the Charter, as the most valid or most famous Degree in Christendom.*

It was only just towards our assailants to display their ingenuity; but is it necessary for us to say one word in refutation?

* Appendix E.

Not a particle of evidence has been produced by them, and we know of none, to show that their inference had occurred to either party ; but, indeed, so peculiarly is it a product of their own genius, that nobody could have made it but themselves, and when it is made, nobody can accede to it but themselves.

23.—*Summary of the Three Objections.*

Thus all the artillery our assailants have been able to bring to bear against our strong fortress of the final decision of the House of Lords, consists of two great pieces and a small one. The innocent absurdity that we did but now take notice of, is the small one. Of the two large pieces, one is a misleading account of what was the practice, in regard to the indispensable qualification, in consequence of the decision ; the other is a reason of the judgment untruly alleged by them to have been assigned by the House of Lords.

Our assailants follow up their attempts to misrepresent the Catanach cause, by an auxiliary one to misrepresent the result of a litigation between Marischal University and their own.

24.—*The Library Cause.*

Seven years prior to the Catanach cause, and originating out of the interpretation of a clause in the first British Copyright Act, there was an action of Declarator raised before the Court of Session by King's College and University, Old Aberdeen, to have it declared that the University and King's College, being beyond controversy the third University in Scotland, has thereby good and undoubted right to a copy of each book printed or published in terms of that Act, and that the Marischal College, being no University, has no right nor title to claim any share of the books, and that Marischal College ought to be ordered to deliver up the copies of books already received, and to pay £50 in name of damages. The Lord Ordinary in the cause gave a decision, (which will be quoted at length, by and bye), much in accordance with the prayer of King's College. His decision, however, was, on a reclaiming petition from Marischal College, set aside by the whole Court. *Our assailants have been pleased to give, as the "ultimate decision of the Court," the Lord Ordinary's decision thus set aside.*

For this reason, and also because they have otherwise represented the final decision of the Court of Session, as one adverse to our University privileges, they have rendered it necessary for us to set this cause, likewise, free from misrepresentation.

The first copyright act, which was passed about thirty years previously, had provided for four copies of each book published being appropriated to the “Four Universities in Scotland.” In the Act, these four Universities were not farther described, either by name or otherwise. A preliminary Interlocutor by the Court of Session, in the present case, decided that what four Universities were meant was to be ascertained by reference to the Act of Union between England and Scotland, where mention is made of the Universities and Colleges in St. Andrew’s, Glasgow, Aberdeen, and Edinburgh; and decided farther, that so far as regards the one copy of each published book appropriated to THE UNIVERSITY OF ABERDEEN, the question of right must lie solely between King’s College and Marischal College, to the exclusion of all other Colleges and Universities in Scotland.

Marischal College and University, taking up an alternative ground of defence, such as will require a little historical explanation, maintained :—

First.—That since King’s College and University Old Aberdeen, and Marischal College and University Aberdeen, had been united by King Charles I. into one University, neither College could pretend to an exclusive right to the books appropriated to the united University; nor could King’s College have any title to carry on this action against Marischal College; or,

Second.—Supposing no such union was in force, still Marischal College was a University as well as King’s College, and had an equal interest in Grants made to THE UNIVERSITY OF ABERDEEN, with King’s College.

WHEREFORE, it was prayed “that the books granted by
“the Statute in question ought either to be divided betwixt
“the two Colleges, equally, or *that they ought to be kept in*
“*one common Library for the benefit of both*; and which
“falls to be situate in the New College, as being the
“more public place, and consequently where the books

“will be of more general use, than in the village of Old
“Aberdeen.”

On the last point (*Which* College should have *the custody* of the books?) the Members of King’s College for the time thus expressed themselves—

“The only other pretence used by the petitioners (Marischal College), why they should be preferred to the *custody* of said books, is that their situation [the royal burgh of Aberdeen], is more commodious than the Respondent’s,” [“the village of Old Aberdeen.”]

“This pretence is neither relevant nor true. What is it to the purpose that they are situated in a populous Royal Burgh? Books are not intended for the use of Burghers, but for Students; and the more retired the place is, the more fit it is for reading and studying them.

“The Petitioners’ Library is a very ill place for books, being exposed to all Eastern storms and steams from the sea; whereas the Respondents have a magnificent fabric, and large precincts, well fenced, and lying to the south sun.*

“The Masters of the Marischal College, having but small salaries, do generally give the office of Library-keeper to one of themselves, who do not give such attendance as the exigence of the Students would require; *whereas the Respondents have a Library-keeper, who has no other business but to attend upon the Students; and the Students of the Marischal College have had more access to the Respondents’ Library these many years by-past, than their own.*

“*Add to these considerations, that if the matter were to be taken upon the footing of the antiquated CAROLINE UNIVERSITY, the Respondents’ Library would have the preference; because, by that gift, there is a very great provision made for the support of the Respondents’ Library, which shows that it was even then considered as THE LIBRARY OF THAT UNIVERSITY.*”

We call the reader’s attention to the description here given by King’s College, of their Library, as a means of obtaining a decision

* Readers at a distance can have little idea of the power of *romantic* description that is here displayed.

in their favour, on the subordinate question of custody. According to them, this Library had been largely gifted with public money at the time of the institution of King Charles's UNIVERSITY OF ABERDEEN, and continued to be freely accessible to the Students of Marischal College. The description given by them imports a Public University Library. Such accordingly, as will presently be seen, this Library was held to be, by the Court of Session.

The Union referred to, of the two Institutions into one University by King Charles I. in 1641, upon the abolition of Episcopacy, was of a kind quite different from any union that has been thought of, or would be desired in the present day. A principal object of the union was to enable the two Institutions to receive and administer grants and property in common; and, at the time of the Universities being united, a considerable income from the revenues of the suppressed Bishoprics was bestowed upon the united University, which was called the Caroline or King Charles I.'s UNIVERSITY OF ABERDEEN. With regard to the conferring of Degrees, the union produced no difference, and provided for none. Whatever powers of conferring Degrees either Institution exercised or possessed before, it continued to exercise or possess. The right of conferring Degrees by Colleges within a University was not without precedent in Scotland. Out of the three Colleges within the University of St. Andrews, there were two that had powers of conferring Degrees, each independent of the other, and independent of the University. One, St. Salvator's College, possessed in this way the power of conferring Degrees in Arts and in Divinity. The other, St. Mary's College, had power to confer Degrees in every Faculty.

The following is the Interlocutor of the Lord Ordinary :—

“ 20th December, 1737.

“ THE LORD ORDINARY having considered the debate, with the
 “ copies of the Charter 1641, and Act ratifying the same, finds
 “ that THE UNIVERSITY AND KING'S COLLEGE OF OLD
 “ ABERDEEN ARE ENTITLED TO a copy of each book lodged
 “ in the Stationer's Hall for the use of the four Universities in
 “ Scotland in terms of the Act of Parliament libelled on, and that

“ the Marischal College in New Aberdeen have no title thereto in
 “ virtue of the said Act ; and decerns accordingly.”

On the reclaiming petition of Marischal College, the Court set aside this decision of the Lord Ordinary, and substituted the following :—

“ July 1, 1738.

“ THE LORDS, having advised this bill and answers, find that
 “ THE KING’S COLLEGE of Aberdeen HAVE RIGHT TO THE
 “ CUSTODY of such books as have been, or shall be, lodged in
 “ Stationer’s Hall for the use of the UNIVERSITY OF ABERDEEN,
 “ conform to the grant in the Act of Parliament, the 8th of Q.
 “ Anne, libelled on, and the said books ought to be lodged in
 “ THE PUBLIC LIBRARY of the said King’s College, FOR THE
 “ USE OF BOTH COLLEGES.”

If we succeed in exposing the garbled character of the decisions that have been quoted by our assailants against us, it is little to our present purpose to inquire elaborately into the true import of the Interlocutors we have quoted. Very probably both Interlocutors were merely the result of efforts to eliminate equitably the intention of the legislature, in regard to the disposal of one of the four books appropriated to the Universities of Scotland. The likelihood of this view is much strengthened by the fact, that although both parties in the Catanach cause allude to the final decision in this Library Case, yet they do not urge the result upon the Court which decided that cause, as determining in any way the position of Marischal College and University. But if we were disposed to stretch the import of the Interlocutors in this case, beyond the mere ascertaining of the intentions of the legislature, we might indulge in such observations as follow :—

The Lord Ordinary’s judgment proceeds upon the recital of his having considered the Charter of Union by Charles I. and the Act of Parliament ratifying it ; and his judgment (upon whatever other grounds it went) plainly shows that he considered this union no longer in force. On the contrary, the judgment of the whole Court accords in all its expressions with the supposition that the union still was in force, and that THE UNIVERSITY OF ABERDEEN, referred to jointly in the Acts for Copyright and for the Union of the two Kingdoms, is

the CAROLINE UNIVERSITY OF ABERDEEN, containing King's College and Marischal College—each, nevertheless, with its original power of conferring Degrees. Certain it is that, from the date of the Charter, 1641, up to the date of the decision, no grant of money from the Crown or Parliament, and no bequest from any private party, was made to THE UNIVERSITY OF ABERDEEN, but both Colleges

“ Claimed kindred there, and had their claims allowed.”

But whatever were the grounds of the judgment, it will be perceived that the ultimate decision of the Court was in favour of Marischal College, in so far as it accorded, with one of its alternative prayers to the Court, *That the Books ought to be kept in one common Library for the benefit of both Colleges*, and was against Marischal College, only so far as concerned the situation of the common Library.

The following is the account of our opponents :—

“ The *ultimate decision of the Court* in this case was, ‘ That King’s College of Old Aberdeen is entitled to a copy of each book lodged in the Stationer’s Hall for the use of the four Universities of Scotland in terms of the Act, and that Marischal College in New Aberdeen has no title thereto in virtue of said Act.’ TO THIS DECISION there was afterwards appended another, in consequence of a reclaiming petition from Marischal College, viz., ‘ That the books should be lodged in the Library of King’s College, for the use of BOTH Colleges.’ ”

Whoever examines with care the decision that is here presented, and compares it with the interlocutors already quoted by us, will perceive that it is a made up thing, consisting of a large extract from the Lord Ordinary’s Interlocutor, which is here called *the ultimate decision of the Court*, and of a shorter extract from the whole Court’s Interlocutor, which set aside the Lord Ordinary’s. Each of these Interlocutors is consistent with itself throughout, but is inconsistent with the other. The consequence of making up a new decision out of both has been such as was to be expected. Never was there a more absurd decision—we do not say given—but invented, before. *King’s College had the SOLE RIGHT to the books ; Marischal College had NO RIGHT ; therefore Marischal College was to have THE SAME RIGHT to the use of the books as King’s College.*

APPENDIX A.

Extracts from Bishop Elphinston's Final Charter of the College of St. Mary of the Nativity, Old Aberdeen.

Collegium in honorem et reverentiam sanctæ et individuæ Trinitatis, Patris et Filii et Spiritus Sancti, intemeratæque Virginis Mariæ, genitricis ejusdem Dei et Domini nostri, Jesu Christi, omniumque sanctorum ejus, sub vocabulo sanctæ Mariæ in nativitate, infra Universitatem villæ veteris Aberdonensis, in civitate ejusdem, quadraginta duarum personarum numero, ereximus et fundavimus, præsentiumque tenore erigimus et fundamus, ex quibus *in primis erunt quatuor Doctores*, Primus videlicet in Theologia, quem Principalem appellari volumus; Cui omnes in dicto Collegio obedire, et obedientiam præstare, cum debitis honore et reverentia, teneantur; Alter in Jure Canonico; *Tertius in Jure Civili*; et Quartus in Medicinis; *si tales commode haberi possunt; alioquin in eisdem facultatibus licentiati cum rigore examinis*, Qui, *infra annum a die admissionis eorundem in dicto collegio, ad doctoratus gradum, singuli in præfatis facultatibus, se faciant promoveri* * * *

Etiam quum aliqua præbendarum præfatarum, videlicet, principalis, canonistæ, *civilistæ*, medici, sub-principalis, vel grammatici, vacaverit, ut unus de dicto collegio, *secundum formam præscriptam*, ad illam bursam habilior et idoneor, et ad laborandum aptior, tam in his quæ sunt infra Collegium quam extra, et in omnibus ad Collegium pertinentibus circumspectior et prudentior, *eligatur et institutur*.

We have erected and founded, and by the tenor of these present, we do erect and found, a College in honour and reverence of the Holy and undivided Trinity, the Father, the Son, and the Holy Spirit, and of the mother of the same God and our Lord, Jesus Christ, the inviolate Virgin Mary, and of all his saints, to be called the College of St. Mary of the Nativity, within the University of Old Aberdeen, and City thereof [to consist] of forty-two persons in number; of which persons *there shall be first, Four Doctors*; the first in Theology, whom we wish to be called Principal, whom all in the said College shall be bound to obey, and to whom they shall yield obedience, with due honour and reverence; the second in Canonical Law; *the third in Civil Law*; and the fourth in Medicine; *if such can conveniently be had; if not, then licentiates in the same faculties, after strict examination, who, within a year from the day of their admission to the said College, shall procure themselves to be promoted to the Doctor's Degree, each in the aforesaid faculties.* * * *

Also, when any of the foresaid prebends, viz., of the Principal, the Canonist, *the Civilist*, the Mediciner, the Sub-Principal or the Grammarian shall have become vacant, *then there shall be elected and instituted, in manner above written*, one out of the said College that shall be well fitted and able for the office, and well adapted for the work of the College, whether internal or external, and sufficiently circumspect and prudent in all College af-

Si autem de Collegio persona, ut superius, qualificata, et ad hoc idonea, reperiri non poterit, extra idem de Universitate Aberdoneusi eligatur, quibus singulis deficientibus, alterius Universitatis, *cum conditionibus tamen et qualitatibus suprascriptis; alias, tamen, personam ineligibilem penitus et inadmittibilem, seu tales personas ineligibiles, omnino declaramus.*

fairs. But if a person belonging to the College, qualified as above, and fit for the purpose, cannot be found, let one be chosen from without, among those belonging to the University of Aberdeen; and failing all such, from among those belonging to any other University, *but always with the conditions and qualities above-written; otherwise, however, we declare that such person or persons are altogether ineligible and inadmissible.*

No. II. in Appendix A (as referred to in a foot note, page 12), is an error. For A read B.

APPENDIX B.

Authorities merely referred to, not Copied.

In the Catanach Case.

No. I.—Information for James Catanach, LL.D., Advocate in Aberdeen, against Mr. Charles Hamilton Gordon, Advocate at Edinburgh, June 29, 1744.*

No. II.—Information for Mr. Charles Hamilton Gordon, Advocate, against James Catanach, Procurator in Aberdeen, June 28, 1744.*

No. III.—Petition of Mr. James Catanach, LL.D., Advocate in Aberdeen, and of Mr. Alexander Burnet, Sub-Principal, Dr. James Gregory, Professor of Medicine, Mr. Alexander Raitt, Mr. Daniel Braidfoot, and Mr. John Chalmers, Regents in the King's College of Old Aberdeen, who, with the four Procuratores chosen by them, were the Electors of Mr. Catanach to be Civilist in the said College, July 27, 1744.†

No. IV.—Answers for Mr. Charles Hamilton Gordon, Advocate, to the Petition of James Catanach and others, Nov. 1, 1744.†

No. V.—Memorial for Mr. James Catanach, LL.D., Advocate in Aberdeen, and of Mr. Alexander Burnet, Sub-Principal, &c. &c. (as in No. III.), Nov. 26, 1744.†

No. VI.—The Case of James Catanach, LL.D., &c., the Appellant.†

No. VII.—The Case of Charles Hamilton Gordon, the Respondent.†

In the Library Cause.

Our short notice is drawn out from papers relating to it in the Town-House.

* Elchies' Collection (Advocates' Library), Vol. 17, F—L. 1742-9.

† In the Arniston and in Gordon's Collections (Advocates' Library).

‡ In pages 44—51 of the Pamphlet "Has Marischal College &c., the power &c.?" Also, Collection of Appeal Cases in the Signet Library, Vol. IX. No. 24.

APPENDIX C.

Notes of Lord Chancellor Hardwicke of Arguments of Counsel, taken in the case Catanach v. Gordon.

These Notes were copied in June 1850, from Lord Hardwicke's own Notes, by Thomas S. Paton, Esq., Advocate, one of the Editors of CASES DECIDED IN THE HOUSE OF LORDS UPON APPEAL FROM SCOTLAND, FROM 1753 TO 1813, by whom they have been since published in the Appendix to Vol. II., Part I. of those Reports ; from which, after his revisal and corrections, they have been, with his liberal and kind permission, transferred to this Pamphlet. A few conjectural illustrations have been added by us [within brackets.]

(Marked on back of Appeal Case,)

“REVERSED, AND DECREE FOR APPELLANT.”

MR. HUME CAMPBELL FOR APPELLANT.

- 1.—That the Appellant is duly qualified.
- 2.—If he was not, yet Respondent was not duly elected ; but the utmost consequence to be drawn from it is, that the election is void.

The qualifications required are either, 1st, a Doctor ; or 2d, *Licentiatius cum rigore examinis*.

The first speaks of an academical degree. The second imports it ; for there was no such thing as a College of Advocates, or Court of Session *there*.

Sufficient to know, that if it were open at law to the Faculty of Advocates to be capable, it could not be without making a monopoly to themselves.

1 Obj.—That the appellant's degree was taken eight days before, in fraud of the statute or charter.

Ans.—Frequent to take up such degrees when they are wanted for qualification.

This was cum rigore examinis.

2d Obj.—That the Marischal College of Aberdeen has not power to confer Degrees.

Ans.—All the Universities in Scotland, generally called *Colleges*, have such power.

Not disputed but they have a power of giving a degree of Master of Arts.

There can be no difference as to the authority.

As to the respondent's qualifications :—

The admission of the Faculty of Advocates is *in order to serve as an advocate at the Bar of the Court of Session*.

2d Point.

Impossible to say, that for the want of qualification in the appellant, the respondent is to be duly elected by a minority of votes.

Extract of Procedure, &c.

Principal's Protest.

ANSWER.

Reply by way of Protest, that *there is no Professor of Law in the*

College ; That their power of conferring such Degrees has never been ascertained; but is still disputed and denied.

MR. ERSKINE, *AD IDEM*.

- 1.—It is not a point in question which of the two parties is in fact duly elected.
- 2.—The Court of Session has proceeded regularly [irregularly?]
- 3.—The electors are made Judges of the point, otherwise there will be no such thing as an election.

Then the merits of this case lie in a very narrow compass.

- 1.—What is the characteristic required?

That the professor should be either a Doctor of Laws, or Licentiate *cum rigore examinis*.

Objected.

- 1.—That he has not a degree from a university having power to confer such a degree.
- 2.—If he has a degree, yet he has not obtained it in a proper manner.
Power is given to them *honoris gradus Academicos conferendi*.
Limnæus de jure Publico, Vol. III, lib. 8, c, De Universitatibus,*
where “Academia” appears afterwards called Universitas & Collegium very probably.

Obj.—No Professor of Law at time of election.

Ans.—At Cambridge no Professor of Music: Degrees in music conferred.

Limnæus “De Universitatibus.”

A man may be admitted an advocate in the Court of Session, though he knows nothing of Civil Law, and is examined only in the municipal law of Scotland.—a writer to the Signet in like manner.

2 Parl. Chas. II. c. 20. Act of employing vacant stipends.

The vacant stipends of Aberdeen, &c. to the Universities of Aberdeen.
Skinner, 485—Philips and Bury.

LORD ADVOCATE FOR RESPONDENT.

Four questions.

- 1.—Whether respondent, by his admission as an advocate, is in a position of being elected?
- 2.—Whether the appellant, Mr. Catanach, is qualified?

* [The following are Extracts from cap. I., entitled *De nominis atque rei definitione*.—§ 10.—“Academia sumitur pro quavis literarum Schola insigniore et ampliore et præcipue ea, quæ dicitur Universitas.”

“Itali et Galli Academias vocant etiam collegia civium nobiliorum, ubi vel Musica, Oratoria, Poesis, etc excoli solet.”

§ 11.—“Alii quum universis ad has pateat aditus, tanquam ad privilegiatas quasdam nundinas, Universitates jure meritoque dici autumant.”

§ 16.—“Præterea quæ olim Academiæ dictæ, tractu temporis postea, nullo discrimine verum, Universitates dici coeperunt; ut autor *Apologiæ antiquitatis Oxoniensis*, lib. I, num. 145, page 66, *uberius firmat*.”

§ 24.—“Est autem Academia a summo principe privilegiatum docentium et discentium collegium, ad hoc ut certo in loco artes liberales publice tradere, et ad discere, atque eruditio honorum aliquot titulos et gradus conferre liceat, utrumque publicam in utilitatem, atque superni numinis honorem.”]

3.—Whether, in consequence, the election is void? or,

4.—Mr. Hamilton Gordon duly Elected?

1.—Impossible, as affairs are situated in Scotland, to comply with the very words of the Statute.

No professorship of the Civil Law in any of the universities of Scotland after the Reformation, till of very late years.

Now one founded in Edinburgh and Glasgow.

The question is, What is the equivalent for it? *There has been no advocate admitted since the Union, but upon a trial in Civil Law.*

The election at Aberdeen has followed this; but

2.—As to Mr. Catanach's qualification, this was an apprenticeship to a procurator at Aberdeen.

About 9 days before the election obtained his Doctor's degree. *As to a diploma, 'tis but an honorary degree per saltum.*

The college was erected by a subject, to teach the liberal Arts—philosophy, &c., not for *Divinity, Law, or Physic.*

The conferring of degrees is *inter regalia majora.*

The conferring it by Parliament would not make it broader than it was in itself.

As it was founded to teach the liberal arts, it may confer degrees in those arts.

No instance of a Doctor of Civil Law in the College till 1727.

No degrees in Scotland in divinity but what are conferred by the Presbytery.

3d Point.—Whether election void? Where there is a *jus devolutum* this can't be, wherever an incapable person is chosen.

In corporate elections, if a majority vote for an unqualified person, the person voted for by the minority is elected.

MR. SOLICITOR GRANT *AD IDEM.*

Three General Questions.

1.—Whether the appellant qualified within the statute and intention of the founder?

2.—Whether the respondent capable, according to the present circumstances, in Scotland?

3.—Suppose the appellant not capable, and the respondent capable, what will be the consequence of voiding part of this election?

1.—As to first.

The foundation of the Marischal [King's] College in 1594 [1494.]

A preference is first given to this College; next, to the University of Aberdeen; lastly, to be of some other university.

The Electors did not examine the merits or learning of either of the candidates.

The Sovereign may confer power of giving Degrees either in part or in whole.

The Marischal College founded by the Earl of Marischal, after the Reformation, for the promotion of the Liberal Arts.

Nothing, however, of their conferring a degree in the civil law, in [till?] 1727.

2.—Act of 1 Parl. Chas. II., c. 4., puts the new College of Aberdeen upon the same footing with the College of Edinburgh.

2d Point.—Whether respondent capable ?

If there is no such Degree now in Scotland as Doctor, nor beyond that of Master of Arts; then the question is, how the intention of the founder is to be complied with ?

It is to be proved—

By the practice in Scotland, a Minister ordained and allowed, is admitted to them in the place of a Doctor in Divinity.

3d Point.—Whether the respondent being capable, and the appellant incapable, the respondent is elected, though by a minority ? If the 13 had voted for different persons, the respondent would have been elected.

If the 13 [9] had refused to vote at all, the four would have been the majority. } Notice.

Suppose vote for a person not elected by a leet, or not an alderman. Case of Fellows of University College.

How is a devolution ?

Respondent is a member of the Old University of Aberdeen; appellant not a member of either, or of any other university.

Mr. Hume Campbell (expt.)

APPENDIX D.

Information from Mr. Paton regarding the state of Lord Hardwicke's Notes on Appeal Cases, communicated by letter from Edinburgh to Professor Clark, with four Explanatory Notes by the Professor.

Note I.—Having observed in Vol. II. of Mr. Paton's Reports the statement, that "*in every case Lord Hardwicke took full Notes of the Argument of Counsel, which have been preserved,*" and having also seen in a private letter from Mr. Paton, dated in June 1850, from the present Lord Hardwicke's, at Wimpole Hall, Cambridgeshire, a statement in these words—"The Lord Chancellor does not seem to have made any Notes of the Grounds of his Judgment, that I can see, in this case," I wrote to Mr. Paton, enquiring what appeared to have been Lord Hardwicke's habits in regard to his Notes of the Grounds of Judgment in Scotch Appeal Cases? The following is Mr. Paton's reply to this enquiry:—

Mr. Paton, Dec. 3, 1852.—"It is quite true that Lord Hardwicke took full Notes of the Argument of Counsel in every Scotch Appeal Case. I found these Notes generally on paper apart, and lying inside of the printed Appeal Case. Sometimes, when not long, they were jotted on the Appeal Case itself.

"In regard to the Lord Chancellor's Notes of the Grounds of his Judgments in the Scotch Appeal Cases, from the investigation I made, it

appeared, that *in no* case had the Lord Chancellor prepared *detailed* notes of the grounds of his decision in those cases. He had done so (as I perceived) in the *English Cases* which came before him; but I was much disappointed to find that the same course was not adopted in the Scotch Appeals. In reference to the Scotch Appeals, nothing appeared but a short jotting down, generally after the case was decided, of the Grounds of the Judgment, if the Judgment was a Reversal. When it was an Affirmance of the judgment of the Court below, the practice *then* in the House of Lords was, simply to affirm, without saying anything.

"On such Appeals, I found simply the word "Affirmed," marked in the Chancellor's own handwriting, the Notes of the argument of Counsel being at sametime found inside the printed Appeal Case.

"In some three or four cases, I found Notes of the Grounds of his Decision written at the end of the Notes taken by him of the argument of Counsel; and I may add, generally, that these statements are supported by those cases I have published, particularly part 1st of Vol. II. of my Appeal Cases.

"Any other information that occurs to you, I shall be glad to furnish."

Note II.—A subsequent letter from Mr. Paton, relating chiefly to a few corrections on the print of his copy of the Chancellor's Notes, contains additional information. The following is an extract:—

Mr. Paton, Dec. 7, 1852.—"I feel deeply interested in the subject you have taken up; and I am only surprised that any one, after that decision, could be heard to dispute the right of the Marischal College. I have, therefore, no objection that you publish that the Notes are taken from my Appeal Reports, and that I have revised them.

"Having, since I last wrote you, been thinking over the matter with the advantage of examining the materials, I find that it was not in every case of *Reversal* that the Lord Chancellor jotted down, shortly, the Grounds of his Decision. I found many cases of Reversal where no Notes of the Grounds of his Decision appeared, though these occurred in fewer number than those cases where he had jotted down the Grounds of his Decision."

Note III.—In order to exhaust the information respecting Lord Chancellor Hardwicke's habits in regard to his Notes of the Grounds of his Judgments in Scotch Appeal Cases, I troubled Mr. Paton with one query more. Here is his answer:—

Mr. Paton, Dec. 13, 1852.—"The short Notes of the Grounds of the Judgments were generally found written on some part of the Appeal Cases themselves, not on the Notes of the Argument of Counsel, *with the exception of three or four cases, where* I found the short Note of the Grounds of Judgment marked at the end of the Notes of the Argument of Counsel."

Note IV.—From the foregoing communications, the following points, in regard to Lord Hardwicke's Notes on Scotch Appeal Cases, seem deducible:—

- 1st. That, *in every case*, he took Notes of the Argument of Counsel at the Bar of the House of Lords.
- 2d. That, *in no case*, did he draw out such detailed Grounds of his Judgments, as he sometimes did in English Cases.

- 3d. That, when a case was decided, he was accustomed not to lay by his papers, (in particular the printed CASES of each party, together with his own Notes of the Argument of Counsel), without having written something on the Appeal Cases, as 'Affirmed,' if his Judgment had been an affirmance (in which case, there was never any Note of his Grounds); also, when his Judgment was a Reversal, *short* Notes of his Reasons were generally written, in most instances on the Appeal Cases, and only in a few instances at the end of his Notes of the Argument of Counsel, and never on a document of any other description, or on a paper apart; but there were also some cases of Reversals, where no Notes of the Grounds of Judgment had been written on either of these documents, or otherwise.
- 4th. That, in the Catanach Case, since the words REVERSE AND DECREE FOR APPELLANT on the Appeal Case are all that he has left written, in addition to his Notes of the Argument of Counsel, it seems established, that this was a case of Reversal of Judgment, where (whether for the obviousness of the Grounds, or for whatever other reason), he did not write out the Grounds of his Decision.

APPENDIX E.

Extracts from the Pamphlet entitled "Has Marischal College, in New Aberdeen, the Power of Conferring Degrees in Divinity, Laws, and Medicine? Aberdeen: D. Wyllie & Son, Booksellers to the Queen, and to Prince Albert. 1850."

"The following Statement has been drawn up and published by a Committee of Senatus, appointed for the purpose.

"King's College, January 1st, 1850."—Page 2.

[*Advertisement from the Lancet of Nov. 22, 1851.*

"THE UNIVERSITY OF ABERDEEN.

"Has Marischal College, in New Aberdeen, the power of conferring Degrees in Divinity, Laws, and Medicine?"

"Copies of a Pamphlet with the above title will be transmitted through the Post on receipt of ten Postage Stamps, by

"DAVID THOMSON, SECRETARY.

"King's College, Aberdeen,
"Nov. 13, 1851."]

*Remarks on the decision of the House of Lords in the Case
of Catanach.*

[NOTE.—In the following extract, the meaning of the writers is rendered difficult of apprehension, from their making use of the phrase ‘The Validity of a Degree from Marischal College’ to signify ‘The Authority of Marischal College to confer a Degree.’ The writers have thus involved themselves in unintentional self-contradiction; as, when after stating that “the validity of the Degree from Marischal College was not taken into consideration” by the House of Lords, they go on to narrate that their Lordships actually held that validity in such consideration that they would not suffer the adverse party to call it in question. To bring out what we believe to be the meaning our assailants intended to express (if they could), we have put at the right hand side, paraphrases of passages where there is this or other kindred ambiguity.]

<p>“This case has been considered sufficient to set at rest the question as to the validity of a Degree from Marischal College.</p>	<p>[the authority of Marischal College to confer a Degree of Doctor.]</p>
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Catanach, by the decision of the House of Lords, was found to be eligible;—therefore, it is said, the Degree which had been granted to him by Marischal College was really a valid one. On examining the decision more carefully, however, it will be found that it does not in the least affect the question.

“According to the Deed of Foundation, the persons to be chosen as Professors of the Civil Law, Theology, and Medicine, must be ‘*Doctores; aut licentiati cum rigore examinis habito, si Doctores commode haberi non possunt, qui similiter licentiati, infra annum ad Doctoratus gradus ascendere teneantur.*’* (Evidence, &c., vol. iv. p.) Now, in deciding on this case—

<p>the validity of the Degree from Marischal College was not taken into consideration;</p>	<p>[the authority of Marischal College to confer a Degree of Doctor was assumed (on the ground of established usage), not discussed (on the ground of Charter and Act of Parliament);]</p>
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for, though Gordon assigned as a reason for the disqualification of Catanach, that ‘Marischal College was erected only for the ‘study of the liberal arts, without any foundation for the Professions ‘of Divinity, Law, or Physick; therefore it never could confer ‘Degrees in these Sciences,’—yet it was given and accepted by the Court as a sufficient answer, ‘that Marischal College had been ‘used to confer the Degree of Doctor of the Civil Law, there- ‘fore *its powers cannot be called in question in a suit to which the College ‘is not a party.*’ The decision in favour of Catanach was given, therefore,

<p>not because he had a Degree from Marischal College,</p>	<p>[not because Marischal College had, from the first, authority to confer any such Degree as Catanach’s,]</p>
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but on grounds from which this plea was excepted. In the printed Reports of the Decisions of the House of Lords, the reasons for judgment are not

* This, which is a summary rather than an extract, is taken from Bishop Elphinston’s First Charter, instead of his Second and Final Charter, which has been given in our Appendix A.

given ; it does not seem at that time to have been the custom to do so. This much, however, is quite evident, that Marischal College was not a party in the suit ; and therefore,—

the validity or non-
validity of the Degree

[(according to what, in our opinion,
is clear law), its authority or want
of authority to confer the Degree]

could not be taken into account. (See Pleadings in Appendix III.)

“ In the absence of the reasons for judgment, exclusive of—

the validity of the Degree
from Marischal College,

[the authority of Marischal
College to confer the Degree,]

which we have shewn was not one of them, it might be fairly presumed, that the status of Licentiate in the Civil Law had, from disuse, ceased to be considered an indispensable qualification, and, therefore, that Catanach, in compliance with the existing practice, was held to be eligible. With regard to the other qualification, the *Doctoratus*, it is *not necessary* that the successful candidate be a Doctor of Laws, it is *merely a recommendation*. If a candidate who is not a Doctor is elected, any member has a right to insist on his advancing to the Doctorate ; but, in that case, the majority who elected him have likewise the power of conferring the Degree, and would readily do so if required. Accordingly, candidates who had not the Degree of LL.D. have, both before and since that time, been elected to the same Chair, without the validity of the election being called in question by the other competitors ;—a clear proof that the Degree was not considered an indispensable requisite.” (See their Pamphlet, pages 30, 31 ; ours, pages 29—39.)

[NOTE.—It would be proper to enquire into the legal effect of the Decision of the House of Lords, that the powers of Marischal College to confer a Degree of Doctor in Civil Law “cannot be called in question in a suit to which the College is not a party”—if it were not for this preliminary objection—that there is not a word of truth in the statement that any such Decision was ever given by the House of Lords. See our pages 32—36.]

An Account of the Library Cause—more ingenious than ingenuous—with an equally romantic and most pathetic sequel.

“ In 1736 King’s College was compelled to raise an action in the Court of Session against Marischal College, for intercepting, getting possession of, and retaining books sent from Stationers’ Hall, and the property of King’s College. The ultimate decision of the Court in the case was, ‘That King’s College of Old Aberdeen is entitled to a copy of each book lodged in the Stationers’ Hall for the use of the four Universities of Scotland in terms of the Act, and that Marischal College, in New Aberdeen, has no title thereto in virtue of said Act.’ To this decision there was afterwards appended another, in consequence of a reclaiming petition from Marischal College, viz., ‘That the books, should be lodged in the Library of King’s College, for the use of both Colleges.’ The last part of the decision was not appealed from by King’s College, partly on account of the expense, and partly also on account of the *odium*, which would have been incurred by appearing to refuse the use of the books in the Library to a Literary Institution in the immediate neighbourhood.” (See their Pamphlet, pages 37, 38 ; ours, pages 39—44.)

Marischal College has been attacked by men fair and impartial—free from all guile—sincere and truthful—according to their own account.

“We think that we have executed the task which we set to ourselves, fairly and impartially,—we have certainly endeavoured to conceal nothing; and we are not aware of having in any case intentionally misrepresented facts. We have examined the Charters, Acts of Parliament, &c., with a sincere desire to arrive at the truth and have presented to our readers the results of our investigation.” (Pages 40, 41.)

The deceitful and daring conduct of the Members of Marischal College.

“We leave it for the consideration of the Members of Marischal College, whether they ought to continue a practice which, to say the least of it, is a deception unworthy of an Institution otherwise standing high in the estimation of the public, and tending especially to mislead Medical Practitioners, and induce them to assume a position in their profession to which they have no legal claim. It is no justification to allege that they have, for a certain given number of years, offered these Degrees to the public, and that they have found persons ready to accept them. . . . So far as the public is concerned, the antiquity of the practice may form an excuse for those professional men who have unwittingly been led to attach to their names letters indicating distinctions which are unmeaning and valueless when proceeding from a self-constituted body; but it is no palliation for those who unwarrantably usurp a portion of the Royal prerogative, and profess to confer honours which can be legitimately bestowed only by the Crown, or by Incorporations acting under a Royal Charter. On the same principle may the Rector and Masters of the Grammar School now commence the practice of vending Academical Degrees, in the hope that, if they are allowed, without legislative interference, to continue the traffic, their successors in office, some fifty years hence, will be entitled to assume to themselves the name and the privileges of a University.” (Page 42.)

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SUGGESTIONS

FOR MAKING MORE EASY AND MORE EFFECTIVE

A UNION

OF

THE UNIVERSITY OF OLD ABERDEEN,

INCLUDING KING'S COLLEGE,

AND

THE UNIVERSITY OF ABERDEEN,

INCLUDING MARISCHAL COLLEGE.

BY

THOMAS CLARK, M.D.,

PROFESSOR OF CHEMISTRY IN THE UNIVERSITY OF ABERDEEN.

LONDON:

PUBLISHED BY JOHN JOSEPH GRIFFIN AND CO.,

53, BAKER STREET, PORTMAN SQUARE; AND

LEWIS SMITH, ABERDEEN.

1850.



INTRODUCTION.

I INTEND here to offer a few suggestions in order to show how some apparent difficulties in the way of uniting the Universities and Colleges of Aberdeen may be easily overcome, so that a union may be effected, according to the interests of the public, without being detrimental to the interests of the present Professors. These suggestions are intended primarily for the consideration of my colleagues the Professors, and also to be respectfully submitted to the Chancellor, the Rector, and the Dean of Faculty of the University of Aberdeen. My health, which ill qualifies me for doing justice to a written treatment of the question, will not permit me fully to discuss this subject with my colleagues in committee, or in Senatus Academicus. I hope they will receive my suggestions, under this form, with their accustomed kindness and consideration. But, as many of the inhabitants of Aberdeen and others of the public are interested in seeing a great University established in Aberdeen, without being able to perceive how the difficulties in the way of a union of the present Universities can be got over, I have no hesitation in also making public these humble suggestions. The question of a union has now been agitated over and over for a century past. Surely it is the duty of every one connected with the Universities, or interested in them, to do what he can in order to bring to an issue this too-long agitated question. In former discussions there has been so much warmth of feeling expended, that I cannot but hope that the subject will be considered now temperately and more wisely.

THE UNIVERSITY AUTHORITIES.

UNDER the existing system the principal authority rests with the Professors. Whatever powers may have originally belonged to the Chancellor and Rector, those are now either nominal or uncertain. The Royal Commission of 1826, which investigated the affairs of all the Scotch Universities, after these had been conducted for more than a century without publicity or authoritative inspection, express themselves dissatisfied with reposing so much power in the hands of the Professors. "There are," say they, "matters which clearly ought to be

“ under the determination of a body at once impartial and efficient.
 “ Questions may occur among the Professors themselves, and from
 “ their supposed collision of interests the most violent dissensions may
 “ ensue, when these questions are decided by the votes of the Profes-
 “ sors ; questions may occur between the Professors and Students (as
 “ in the case of expulsion of Students), in which the determination of
 “ the Professors ought not to be final ; questions may occur in regard to
 “ the amount of fees, in which the Professors may have an immediate
 “ interest ; questions may occur as to the mode of conferring degrees,
 “ in which the interests of the community are deeply involved, and in the
 “ final determination of which it appears to be fitting that the views of
 “ the Professors alone ought not to be decisive. Further, the manage-
 “ ment and disposal of property given to the Colleges for public pur-
 “ poses ought to be subject to some control, else the very objects for
 “ which such property was given may be defeated. But above all,
 “ provision ought to be made for the gradual introduction of such
 “ improvements in the system of instruction as the progress of philo-
 “ sophy, or the more enlarged views of the age, may require.” The
 members of this Commission, which was nominated by Sir Robert
 Peel, were Noblemen, Lawyers, and Clergymen, all of eminent stand-
 ing, a great majority of them of Tory politics, and all of them Conser-
 vative in their habits, as their subsequent public career has well shown.
 Their Report is distinctly characteristic of the tendencies of the age it
 belongs to. It is reforming : with a perception of evils that have
 existed in old institutions, without much discrimination as to whether
 those evils are due to circumstances such as may be altered or are in-
 herent in the institution. It is innovating : it leaves the ills we have
 to flee to others that we know not of ; seeing clearly the faults that have
 been committed by an old body of men, it trusts blindly for a remedy
 in a new body of men ; sound in deciding on the expediency of leaping
 out of the fryingpan, very reckless in deciding where to leap into ;
 with infinite respect for current conventions, but with no consideration
 to spare for men of science and letters holding the office of Professor
 in a University ; no consideration, at least beyond a few honied words,
 in proposing to deprive them of everything like power and influence.
 According to this Commission, all powers of making laws regulating
 Universities, and all management of funds, were to be transferred from
 the Professors to a body called the University Court.

The real reason for proposing the institution of this new Court, and
 the transference to it of the legislative and administrative powers now
 exercised by the *Senatus Academicus*, seems to me to have been the
 improper management of the University funds in two out of the five
 Scotch Universities. In those two the surplus funds accruing to the
 Universities were equally divided among the members of the *Senatus*

Academicus—so equally that the sinecurist got an equal share with the hardest working Professor, at the same time that great liberty was taken in contracting debts on the credit of the University. No doubt the Commission proposed that the new Court should perform other functions than to counteract this particular abuse; but a new instrument of administration is a favourite with its projectors, who, when it is once invented, are sure to find for it enough to do.

In the University of Glasgow a different system of appropriating the surplus revenues prevailed; and in that University alone there existed an authority somewhat approaching to the proposed new University Court. According to decisions of the Court of Session, “the Rector, “the Dean of the Faculty of the University of Glasgow, and the Minister of the town of Glasgow, are by the Foundation Charter appointed “Visitors of the College of Glasgow, by whose advice and consent only, “or a majority of them, all the surpluses of the College revenues, after “paying the Masters’ salaries and other standing burdens, are to be disposed of and applied to pious and necessary uses of the College; and “the said Visitors have the power of seeing that all things in the said “College be rightly administered, according to the intention of the “Foundation Charter of the said College, called *Nova Erectio*, granted “by King James VI. in the year 1577, and according to the statutes “enacted by the last Royal Visitation of the said College; and that they, “the said Visitors, have power by their own authority to reduce all “things into order, in so far as is agreeable to the said Charter and “Statutes.”

This constitution, at least, was a check on surplus revenues being improperly appropriated. The surpluses were not divided among the Professors, but were accumulated into a capital stock, and out of the interest, or clear revenue of that stock, grants for the increase of the salaries of the Professors were made from time to time by the sole authority of the Visitors.

The Commission of 1826, however, more full of their own inventions than ready to consider the lessons of experience, proceeded in the spirit of innovation rather than of reform. Let us attend to their objections to the persons that were Visitors. “The Rector,” say they, “is seldom resident, the Dean of Faculties is chosen by the Professors “themselves, and the Minister of Glasgow, one of the other Visitors, has “been for some time the Principal of the College.” In fact, we gather further from their report, that one Minister of Glasgow that sanctioned as a Visitor an increase of 170*l.* a-year to the salary of the Principal and of each Professor, contrived to wriggle himself afterwards into the nearly sinecure office of Principal, which he retained along with his living as Minister of Glasgow. After all their objections, what better constitution for the University Court did this Commission propose?

Why, the very same three persons, the Rector, the Dean, and the Minister, are Members of their proposed University Court. No doubt there were to be also four other Members. The first is the Principal, notwithstanding their own objections to that officer ; the second is an Assessor appointed by the Rector, as if it were proper, when a man is elected for the purpose of performing the duties of Rector, he should appoint another to attend to the duties with more punctuality than himself ; the third is an Assessor to be appointed by the Chancellor, — a proposal that has always appeared singularly objectionable to the Professors, under the impression that the Chancellor's Factor is most likely to be the Chancellor's Assessor ; and the last is an Assessor appointed conjointly by the Professors and Graduates. There were, after all, serious practical objections to only one of the three Visitors, which they seem to have endeavoured to counteract by huddling in other three or four, variously if not judiciously chosen. I am free to confess that I do not admire the skill any more than the caution of the Commission as reformers. The grand difficulty in practice would have been to get the Members of their University Court ever to bestow adequate attention on the multifarious details that were to come under their consideration.

It is clearly one thing to show, as the Royal Commission of 1826 has done, that the affairs of a University should not be left to the management of the Professors alone ; but quite another thing to propose, as the same Commission has done, that those affairs should not be left to the Professors at all. I own I do not think that any check on the Professors is required beyond some well-considered modification of the system of Visitors as extant in the University of Glasgow.

Without any objectionable innovation on the existing system of the Scotch Universities, the authorities in the United University might be three :—

I. THE CHANCELLOR.

II. THE COURT OF VISITORS.

III. THE SENATE.

THE CHANCELLOR to be elected by the Senate.

THE COURT OF VISITORS to consist of—

1st. *The Rector*, elected by the Professors and all the matriculated Students that have been giving *bonâ fide* attendance on a class, and that have previously attended at least one class of the University for an entire session.

2nd. *The Dean of the Faculties*, elected by the Senate.

3rd. *An Assessor*, appointed by the Principal and Professors and all the Graduates of the University ; no Member of the Court to be a Professor in the University for the time being.

THE SENATE, consisting of the Dean of the Faculties, with a casting-vote, but not with a deliberative one, and all the Professors.

Now all functions of University authorities may be divided into three kinds:—

1st. Financial.

2nd. Legislative.

3rd. Judicial.

1st. *Financial Functions*.—The management of the various property and funds entrusted to the University, and of the ordinary and necessary expenditure, may be safely left to the Senate, with power to appoint a Financial Committee and a Factor, but under certain restrictions. First, their accounts should be audited by the Court of Visitors, by whom there should be printed annually a satisfactory statement of the accounts not merely of the Professors, but of Extra-University Trustees, such as the Town Council, or private persons. For this purpose the Court of Visitors should be empowered to demand such accounts. This was a proposal by my colleagues in 1837. (See p. 299 of Second Report of the Commission, &c., 1839.) They seem to have been then unable to obtain any accounts relating to the funds of the University, except such as they themselves managed. Second, the Act of Union should fix the salaries of the various Professors at a reasonable minimum rate. Third, all surplus revenue, after paying such salaries and other fixed burdens, and ordinary and necessary expenses, should be appropriated to University purposes alone, by the authority, not of the Senate, but of the Court of Visitors. Fourth, as one of those purposes, it should be in the power of that Court to appropriate part of the surplus revenues to the formation of a supplementary capital fund for the increase of the salaries of the Professors; the interest or clear revenue of this fund, and no part of the capital, to be divided among the Professors in such a way that Medical Professors and others deriving emoluments from the ordinary practice of their professions should receive alike one share, and Professors in Arts, and others devoted to their chairs alone, should receive alike two shares. By some such rule as this, previously established, occasion for misunderstandings about money among the Professors, and of annoyance to Members of the Court, would be avoided. The chance that the Professors would have of increasing their own salaries would be a motive to them for the economical management of the University funds, and indeed these funds would obviously be enriched rather than impoverished by any increase of the salaries of the Professors that would arise under such an arrangement.

2nd. *Legislative Functions*.—The power of making all University

laws, of whatever kind, might belong to the Senate and to the Court of Visitors conjointly. In any case of the Court differing from the Senate in regard to a regulation, the Court may appeal to the Chancellor, who, after due communication with the Senate as well as with the Court, may, in conjunction with the Court, institute the disputed regulation. The more careful and advised preparation of regulations by the Senate, and the more immediate influence of public opinion on the Court in regard to its legislative enactments, might be secured by previous public intimation of the subjects of legislation that are to be entertained at any sitting of the Court, and by having the laws that are to be proposed to the Court by the Senate in a printed form, and accessible at a reasonable expense to any Member of the University.

3rd. *Judicial Functions*.—The ordinary discipline of each class must clearly belong to the presiding Professor, acting under the general supervision of the Senate. If ever a spirit of insubordination or contumacy appear among any of the Students, it seems to me to be no part of a Professor's duty to struggle with such a spirit, or even to give himself the slightest trouble on the subject. His duty is to teach, conducting his class under rules of order duly established by the University authorities. The duty of the Professor to himself and to the well-disposed among his pupils, is simply to dismiss any pupil that contumaciously sets at nought such rules. In such a case every Professor should have the power of dismissal from his own class for the rest of the current session, with a right of appeal by the student to the Senate, which may restore him. If the Professors and the Senate have not thus the power to dismiss an insubordinate Student for the remainder of a current session, or if a Student had the right to suspend a sentence of dismissal for the rest of a session by an appeal from them to the Court of Visitors, discipline would be impossible. The power of expelling a student from the University should belong to the Senate, subject to an appeal to the Court of Visitors.

The ordinary discipline of the Professors, too, naturally belongs to the Senate, which, in more flagrant cases, should have power to bring to trial before the Court of Visitors a Professor for neglect of duty or for immoral conduct, and the Court should have power, with the sanction of the Chancellor, to sentence the Professor, if found guilty, to deprivation of the whole or a part of his emoluments, and to suspension from his duties for a time or for life, with such power of appeal to the civil courts by the Professor as may be necessary to secure the due administration of justice in the University Court.

There has been always felt some difficulty in fixing who should be members of the superior University Court; but the Rector and the Dean of the Faculties, or at least some person chosen by the same constituency as this Dean, were proposed both by the Royal Com-

mission of 1826, and by the Royal Commission of 1836, and the same officers have been included in every other scheme of such a court that I have met with. The third member, the Assessor elected by the Professors and Graduates, is the least objectionable additional member proposed by the Commission of 1826. The graduates of the University are the portion of this community best qualified and most likely to interest themselves in making a proper choice of a member of the Court, provided written votes be admitted, as has been done in the election of Poor Law Guardians in England. Otherwise I should have fear of some person being appointed by a local clique in Aberdeen ; a kind of influence in the hands of any body, that the Commission of 1836 most wisely guarded against, and one that could not fail to be at once degrading and pernicious to the united University.

I think that three persons would be adequate to do the business, and that adding to this number would merely diminish the salutary feeling of responsibility and increase the chance of the introduction of members that would not attend to business. Out of the three members two might be a quorum ; but the concurrence of two members should be necessary in order to come to a decision. In the case of a quorum of two, where there was a difference of opinion, liberty of adjourning the Court might be permitted, and the disputed question might be settled at a full meeting of the Court.

The great point to be attended to in details, respecting the election of the members of the Court of Visitors, such as the term of years that they should be elected for, will be to insure a regular meeting of the Court at least once a year, for one or more days. But I think that if the Act provide that the term is not to be less than one, nor more than four years, this as well as all other details may be safely left to the regulation of the University authorities, guided as they will be by experience. The Professors will have a strong interest in securing that stated meetings be held at least once in a year. Indeed one great advantage resulting from this form of University Government will be, that the Act of Parliament for effecting the union will with great advantage omit numerous details of regulation, such as are proposed by the University Commission of 1826, and such as were necessary in a former Bill drawn up mainly in furtherance of the suggestions of that Commission. If apprehension be felt that the proposed University authorities may on some occasion come short of the requirements of the age, it is to be remembered that power of remedy will always exist in the Crown through its own Visitors. Better is such a remedy than a complication of unalterable authoritative provisions, such as in process of time are much more likely to hinder good from being done, than to guard infallibly against the occurrence of evil.

FINANCIAL CONSIDERATIONS RELATIVE TO THE UNION.

The funds connected with both Universities for the payment of endowments to Professors were as follows, distinguishing what is derived from the original College funds, and what is derived from Crown grants, according to the last public return, which was for the year 1836, and adding some Crown grants that have been made to Marischal College since.

	College.	Crown.	
King's College . . .	£1216	£998	= £2214
Marischal College . . .	1053	1233	= 2286
	<hr/>	<hr/>	<hr/>
	£2269	£2231	£4500

I have omitted from these sums 35*l.*, the private endowment of the Chair of Oriental Languages in Marischal College, which I presume will fall to be appropriated to some such object as a Divinity Bursary under the same patron; also 150*l.* granted to the present Divinity Professor in King's College during his incumbency.

In proceeding to set forth what should be the number of chairs in the united University, and what the salaries appropriated to each, I will, instead of presuming to give any opinion of my own, adhere to the suggestions of the two Royal Commissions, as far as this can be done consistently. The Commission of 1826 recommended a union with only one Professor in each department of literature or science, with tutors to assist some of the Professors; whereas the Commission of 1836 recommended that there should be two Professors in each of the five departments, Moral Philosophy, Natural Philosophy, Mathematics, Greek, Latin.

The institution of assistants to the Professors, whether called Tutors or by any other name, is a wise and important suggestion. The correction of written exercises, which is a drudgery of detail proper for young men, but not for Professors, would alone give occupation to such assistants, to say nothing of their giving private instructions to sections of a class. After the proposed union, it would probably happen that such examinations as are now required for the degree of M.A. would entitle only to the degree of B.A., and the degree of Master be conferred upon Bachelors in two years afterwards, on an extended examination in some two or three of the branches in the curriculum of Arts. For the encouragement of Masters of Arts so graduated, assistants for four years could be selected annually from their number by competition, chiefly in the departments where the candidate proposes to act as an assistant. Either the surplus Bursar Funds or the surplus General University Funds might be applied to provide salaries for such assistants; and there might be, in

addition, allowed to them a small portion of the fees of the classes that have the advantage of their services. Thus would encouragement be given to the best Graduates in the University ; thus would there be sent forth, to civil or professional life, men of really high attainments in literature or science ; thus would be found at hand qualified substitutes during the illness or old age of Professors ; thus would be educated future Teachers of High Schools and Academies, and Professors in Universities.

I. PROPOSED ENDOWMENTS, ACCORDING TO THE COMMISSION OF 1836, SUPPOSING THERE BE ONLY ONE CHAIR IN EACH DEPARTMENT.

Principal	£250
Church History	300
Divinity	300
Oriental Languages	300
Law	100
Medicine	100
Surgery	100
Anatomy	150
Chemistry	250
Natural History	250
Moral Philosophy	250
Natural Philosophy	250
Mathematics	250
Greek	250
Latin	250

One Principalship and 14 Professorships } £3,350
that already exist }

The following four Chairs are also proposed :—

Biblical Criticism	£300
Logic and Rhetoric	250
Materia Medica	100
Midwifery	100
	<hr/> 750

Endowments of 18 Professorships, the Prin- } 4,100
cipal holding one of them }

12 Assistant Bursars at 50*l*. ? 600

£4,700

I reckon that in Latin, in Greek, and in Mathematics there will be required two Assistants in each department, making up six Assistants ; and that in the departments of Natural Philosophy, Moral Philosophy, Logic and Rhetoric, Natural History, Chemistry, and Anatomy, there will be required one Assistant to each, which will make up other six, in all 12.*

II. PROPOSED ENDOWMENTS ON THE SUPPOSITION THAT THERE ARE TWO CHAIRS IN THE DEPARTMENTS OF LATIN, GREEK, MATHEMATICS, NATURAL PHILOSOPHY, MORAL PHILOSOPHY—IN ALL, FIVE DEPARTMENTS.

19 Professorships, including the Principal	£4,100
5 Duplicate Professors, at 250 <i>l</i> .	1,250
	<hr/>
	£5,350

As I have no doubt that it will come to be considered expedient to raise the endowment of the Professor of Anatomy to 250*l*., on the condition that he shall teach Practical Anatomy and refrain from medical practice, the scheme of union with one set of Professors in each department, and including 12 Assistants, may be reckoned at £4,800. The scheme with duplicate Professors in five departments, but without Assistants 5,450

The incomes of both Colleges, I have reason to believe, have so increased as to permit the funds for endowments to cover the first scheme ; but they would be not far from 650*l*. short of the second scheme. Nor, when it is considered how desirable it would be to provide a permanent fund in aid of retiring allowances for superannuated Professors, and to provide for several other University objects, and how long it will be before the present funds can become fully available to the united University by the deaths of the superseded incumbents, will any reasonable man think that a higher rate of salaries could be ventured on,

* On the proposed Theological Professorships, one of my colleagues, worthy of deference on such a subject, has, at my request, favoured me with the following note of a suggestion that I heard him make in conversation :—

“My proposition as to the Theological faculty was, that there should be (1) a Professor of Systematic Theology, (2) one of Church History, (3) one of Hebrew with its cognate dialects and the Biblical Criticism of the Old Testament, and (4) one of Hellenistic Greek and the Biblical Criticism of the Septuagint and New Testament. I prefer this arrangement, because Hebrew and its cognate dialects are quite enough for any one man to undertake, and the criticism of the Old Testament will be a mere following out of such studies ; while in this country Hellenistic Greek is almost entirely neglected, and yet there never can be a thorough developement of New Testament criticism without it. In this way you would have the same number of Professors, and at the same time a more complete curriculum of Theology than is to be found in Great Britain.”

with only the present funds, than the one proposed by the Commission of 1836. I have reason to believe that little objection would be made to a deduction from the proposed salary of the Principal, at least until the other endowments undergo an increase. The Professorships of Church History and Oriental Languages will be the only Theological ones in the gift of the Crown, which is not to be supposed likely to confine its patronage of this office, if the Crown be to appoint the Principal, to the incumbents of these two Chairs only. I hope that the Theological Chair in the gift of the Synod of Aberdeen, and the one in the gift of the Town Council, will not be held by the Crown as disqualifications for the office of Principal, and that even, as the Crown has been pleased heretofore to appoint a layman to the office of Principal in Marischal College, it will not absolutely deprive itself of the power of doing the like again in the united University. The office is the only second one that should be held by a Professor; and although, for one, I should deplore any Professorship remaining in the patronage of the Senate, except on the condition of their appointing Examiners and awarding it by competition; yet I own, in regard to the office of Principal, their executive head, who should have the chief labour in preparing and furthering the business of the Senate, I think they might well be expected to make out of their own number the best choice; and, if the election were for five years only, I confess I am speculative enough to conjecture that there would be a better chance, than under any other mode of appointment, of this duty of the Principal's being well performed, and of the endowment's being of general advantage to the University.

At present the whole endowments of the three Professors in the Faculty of Theology in Marischal College amount to only 230*l.*, and only one of the chairs is well provided for, and that indirectly, in consequence of its being held along with the office of Principal, and the additional salary of about 360*l.* The Professors in Arts in the same College receive, when their expenses are paid out of their fees, probably between 300*l.* and 350*l.* a year each; average about 320*l.* Were the proposed union, on the scheme of only one set of Professors in each department, brought into full operation, their yearly income would probably be about 500*l.* The present incomes, although these might have been regarded as adequate some 40 years ago, are evidently unsuitable to the circumstances of the present day. It is not right that Professors should be stinted in their outlay on their private libraries, and other necessary means of study, nor in the means of showing a liberal hospitality towards the Students. The higher the endowments, the greater will be the abilities of the candidates for the several Chairs.

SUPPOSING THERE BE ONLY ONE PROFESSOR TO EACH DEPARTMENT,
WOULD THE CLASSES NOT BE TOO LARGE?

Undue weight has, in former discussions of a union, been given to the supposed disadvantage of increasing the classes to numbers too great in order to be successfully examined by the Professors. In other Universities in Scotland, single classes have been examined with eminent reputation and success, where the number in each has exceeded all the Students in Arts in either King's or Marischal College. In this, as in any other department of teaching, the aim of the Professor should be to engage the attention of every Student present. A Professor earnestly bent on doing this will readily discover means of success. The voluminous evidence given by Scotch Professors before the Commission of 1826 presents here and there interesting accounts of different modes that have been made available for this purpose. One very simple device I have found of great use in commanding attention during class examinations. The ordinary method is for the Professor first to name the Student that is to answer, and afterwards to put the questions. My method, ever since I taught, has been to give out distinctly only a single question, and then to name the Student that is to make answer. In appearance, the difference is little; in effect, it is great. If I say, "Mr. John Thomson, what are the properties of sulphuric acid?" the mere naming of the individual, before putting the question, allows to all the idly disposed of the class the agreeable opportunity of not attending either to the question or to the answer; but if I say, "What are the properties of sulphuric acid?—Mr. John Wilson"—it is another affair. Neither Mr. John Thomson, nor Mr. John Wilson, nor any body in the class knows whose the question is to be. Every one must not only attend to the question, but bethink himself somewhat of the answer. There is a pause given for this purpose, before the Student that is to answer is named. On being named, it is his duty to stand up and answer. If Mr. John Wilson, before he stands up, have not bethought himself of a fitting answer, he will seem so unknowing and so unready as no young man will willingly appear again before his fellow-students. The power of answering promptly and precisely in presence of a large class is itself an important acquisition. As to teaching numbers in a class, my experience indeed is limited; but I have always found examinations, when so conducted, to command the attention of every Student the more, in proportion as the class is large. In addition to such advantage to the Students, the carefulness of preparation by the Professors and the spirit of delivery that are induced by an increased audience, and the aid, more especially in correcting written exercises, to be afforded to them by the proposed Assistants, lead me to hold very light the supposed disadvantage of increased classes in carrying on the necessary exercise of examinations.

SUPPOSING THERE BE ONLY ONE PROFESSOR TO EACH DEPARTMENT,
WOULD THERE NOT BE A WANT FELT OF COMPETITION?

A kindred objection is, that, by a union, with one set of Professors, an end will be put to the present competition between the duplicate Professors in the two Colleges. The answer is, that there is in effect no such competition. Students repair to the one College or to the other, from different parts of the country, from other motives, as custom, or the expectation of Bursaries; and it is very seldom indeed heard of that a Student will attend in the same session a Professor in one College together with a Professor in the other.

Competition, in the limited degree that it exists among Professors in a German University, has often been referred to in discussions relating to the Scotch Universities. In Germany there are in the Universities what are called private Professors, who are not endowed, corresponding to what we would call Lecturers; and the classes of those private Professors are of equal value in the University with the classes of the public and endowed Professors. Why, it has been often asked, should we not have the same system in Scotland? According to the original constitution of the Scotch Universities, indeed, there seems to have been no other provision for teaching than by conferring on every Graduate the right to teach within his own Faculty. This provision, however, existed only in the very infancy of the Universities, but these, without other means of teaching, could not long have survived. The Regents then, instead of being regarded as Professors now are, holders of office for life, entered on their duties young men, at the close of their own curriculum, and were taken bound, like so many modern apprentices, to remain in office for three or four years. We need not therefore wonder that this system has long disappeared, without any trace except such as remains in the unworkable provisions of ancient charters. The modern and actually working competition of the German Universities is probably a very good system; but in order to have it in Scotland, we would require a provision of income insured to the Professors, to make it as practicable as it has been found in Germany. Here the slender incomes of the Professors are eked out partly by an endowment, and partly by a sort of monopoly of teaching. If the higher endowments of Professors in Arts in the united University were made 100%. more than the minimum rate of salary that has been proposed, the monopoly of teaching, so far as it now exists, might be dispensed with, and the German system of competition be admitted with advantage. In that case the private teachers entitled to teach in any department within the University, and under its discipline, would naturally be Graduates that had formerly acted as Assistants in the same department. These considerations do not relate to a question of immediate and pressing

urgency ; but they are offered now in order to show that, in instituting the united University, we do not shut out for ever the means of competition with Professors ; at the same time that we do shut out for ever the base competition that undoubtedly has existed between University and University, by making or keeping gentle some of the University examinations.

HOW TO PROVIDE FOR THE PROFESSORS THAT WOULD BE SUPERSEDED ON A UNION TAKING PLACE.

When the question is, with 4800*l.* to endow eighteen Professors, including a Principal, and partly to provide for twelve Assistants, the problem is a simple one. But the question we have to solve is a complicated one. Before all our 4800*l.* can be available to the purposes of the united University, the holders of no fewer than ten offices in the present Universities must have died out. As far as I can foresee, the endowments of these ten offices will amount to about 2400*l.* ; that is to say, at the outset of the scheme there is a deficiency of 50 per cent. in the funds requisite for endowments alone ; but what adds to the difficulty is, that seven out of the ten persons receive fees to the amount, I believe, of 1200*l.* a year, and by law and custom those persons have a vested right in the whole 3600*l.*

At first it may be supposed that after the union there might be a sort of intermediate state, where both sets of Professors might be allowed to teach on as before, during their lives ; but a little consideration will evince that this intermediate state would soon become one of diminished efficiency in regard to the Students, and of discomfort in regard to several of the Professors. Supposing, for instance, that a Professor of Latin and one of Greek were to be continued in each College till one of the four Professors died ; what is to be done then ? The surviving Professor in the College where the vacancy has taken place will be in a disadvantageous situation, whether the Students have to repair to the other College for the other class, or whether this class continue to be taught in the same College as before, but by a temporary Assistant. It is clear that if the united University did not start on the new footing as soon as possible, or at least be put on this footing within the first three or four years, it would begin under great disadvantages. I proceed, therefore, to consider the question, how the Professors that would be superseded on a union taking place should be provided for.

So far as regards the endowments of the superseded Professors, there can be no difficulty. They may continue to receive their old salaries,

the same as if no union had taken place. The difficulty is to provide also for their 1200*l.* of fees.

The whole income of a Professor is so small, and indeed so inadequate to the merits and necessities of his position, that he may be expected to make a somewhat rigid exaction of his pecuniary rights, in being superseded. Still the advantage of being relieved from the labour and responsibility of teaching should be reckoned as a compensation for some part of his fees—I suggest, for one-third part of them—that is to say, I propose that the superseded Professors should be compensated for their lost fees by two-thirds of the average of those during the last three years they have taught ; so that if 1200*l.* represent accurately their yearly fees, 800*l.* a-year will be the sum that will have to be provided for them in compensation for their fees. This annual sum would gradually become less as the superseded Professors one by one died out.

How then are those terminable annuities for the compensation of fees to be provided for? By Government? This were very desirable ; but I fear that, under the present partly honest and partly canting attempt at Government economy, even so small and so temporary an aid to the establishment of a great University might be considered as something unpatriotic. Should, then, the money come from the Professors that remain? To charge a Professor that remains in any Chair that was duplicate with two-thirds of the fees of the Professor that has retired, would be to place the one that is left in a very discouraging situation for an uncertain number of years, with nearly double the number of pupils to teach, without an increase of salary, and possibly without an increase of fees. I hope that this mode of compensating the superseded Professors for their fees will not be thought of.

I propose that the money for this purpose should be borrowed and advanced to the superseded Professors during their lives, and that what of their endowments fall in by deaths, should be applied to the payment, first, of the money so borrowed, and next, of what compensation for fees remains to be paid annually. I will endeavour to illustrate how the borrowed money will be paid up ; and in making the attempt, I will purposely avoid stating the emoluments of the several Chairs, for such particulars, mixed up as they would be with questions of survivorship, might be painful to individuals. It will answer the purpose of illustration, and yield very nearly the same practical result, to assume that there will be ten superseded Professors, each with 240*l.* of endowment, and with 80*l.* of fees, and each, therefore, with a total retiring allowance of 320*l.* a-year.

			Total Fees to pay.	Money to borrow.	Money to pay what was borrowed.
Before any death there would be annually			£. 800	£. 800	£. 0
	Fallen in				
	Endow- ments.	Fees.			
	£.	£.			
After one death . . .	240	80	720	480	0
„ two deaths . . .	480	160	640	160	0
„ three deaths . . .	720	240	560	0	160
„ four deaths . . .	960	320	480	0	480
„ five deaths . . .	1,200	400	400	0	800
„ six deaths . . .	1,440	480	320	0	1,120

The carrying out of such a scheme of remunerating for lost fees might be much facilitated by a contract with a Life Insurance Company, by whom the falling in of even the endowments of the superseded Chairs might be made of definite dates. For such purposes power should be taken in the Act for uniting the Universities.

In consideration of four Theological Professorships being satisfactorily provided for by the proposed union, I should hope that Government might be induced to allow to fall into the funds of the University, during its intermediate state, some of the sinecure Deanships of the Chapel Royal.

When a rise is to take place in the endowment of a Chair that is at present duplicate, the rise will have to be calculated on the larger of the present endowments. For example, if one of the Chairs in Arts be at present at 180*l.*, and the other at 210*l.*, the rise would be calculated at 40*l.* on the 210*l.*, and not 70*l.* on the 180*l.*, in order to make up the new salary of 250*l.*, otherwise the rise allowed would invade the funds to be devoted to other Chairs. I presume that during the lives of both Professors this rise should be divided between the two, until the death of the superseded Professor. Thus, in the supposed instance the 180*l.* would be raised to 200*l.*, and the 210*l.* to 230*l.*

Let us then take into one view the emoluments of the superseded Professor in the case of a duplicate Chair, and into another view the emoluments of the Professor that remains in the united University.

The superseded Professor will receive—

1. His endowment, whether more or less, precisely as if no union had taken place.
2. One half of any additional endowments that may accrue to the Chair in consequence of the union.

3. Two-thirds of his fees, calculated on the average of the last three years he has taught.
4. I would suggest also, in order to encourage retirement on the union taking place, that each retiring Professor should have the title of Emeritus Professor in the united University, and have a seat in the Senate.

During the earlier years of the united University there would be much more general business before the Senate than would be likely soon to occur in a like period afterwards ; and during this pressure of business the presence of some of the retired Professors might be a relief to the teaching Professors.

Again, the Professor that remains in the united University will receive—

1. His endowment as before.
2. When funds have fallen in, in consequence of deaths among the incumbents in the superseded Chairs, he will receive one-half of the rise in salary consequent on the union.
3. After the death of the superseded Professor in the same department, he will receive the remaining half of this increase.
4. He will receive an increased amount of fees in consequence of the increased number of pupils.

If, notwithstanding all those encouragements to retire, there be, in one, two, or three departments, a necessity to continue duplicate Chairs for a few years, the University Authorities must be empowered to provide either that two sets of classes shall be taught in the department in each year, or that only one set of classes shall be taught in the year, but alternately, by each Professor, in successive years. There will also possibly be one or two of the duplicate Chairs where a change of department by some of the younger Professors may be properly authorized, in order to benefit the new University by providing for older instead of younger men in the capacity of superseded Professors.

BURSARY FUNDS FOR STUDENTS.

These funds are much larger in Aberdeen than in any other University in Scotland. I have heard them estimated for both Colleges at 2800*l.* a-year. Like all other human institutions, these funds are not of unmixed good. Some have even doubted the expediency of the institution altogether ; but there is in Aberdeen an evident tendency among the well-wishers of Universities, to maintain and increase these funds. I conceive it therefore to be less the duty of a friend of the Universities to investigate the principles of this particular institution, than it is to study how it can be made best available in conferring an efficient University education on them that it is intended to benefit.

The professed object of these funds is to encourage the education of poor Students. The shameless appropriation of Bursaries by the sons of persons in easy circumstances of life is a crying abuse, which I cannot persuade myself could not be counteracted if there existed the will and the spirit to resist it. But in instituting Bursaries, the intention is not, in the abstract, to give a University education to young men in circumstances of poverty (which were indeed an object of most doubtful expediency), but that young men in such circumstances should not be debarred from the benefit of such an education, when they have given good promise of ability in their school education. This intention each College and the Town Council of Aberdeen, so far as these bodies are absolute patrons of Bursaries, have done their best honourably to fulfil, by bestowing all their presentations to Bursaries according to the results of impartial competitions. In conducting such competitions, the main test is the Grammar-school proficiency of the candidates. This test has undergone improvement in its details during recent years, under the exertions of the Professors most concerned in this department of University duty ; and under their fostering care, I have no doubt that, in due time, the test will become more efficient still. For my part I do not presume to propose any change on the present mode of appointing Bursars, so far as the holding of Bursaries for the first year is concerned. But why should not a new competition of Bursars take place before every successive year? If a Student come from the country, and fail in obtaining a Bursary, perhaps from not having undergone so express a preparation for the particular exercises, why should he not have a new and a fairer chance next year, on his University attainments? At present, a candidate having obtained, by competition on his Grammar-school attainments, perhaps the highest Bursary in the College, may securely reckon on the possession of it for all the four years, although he can but barely pass the comparatively low standard of examination that will permit a student to proceed from the classes of one year to the classes of the next. The Bursary has been granted to him as a prize for his Grammar-school attainments (and properly enough as concerns the first year), but it may be continued to him for other three years, without a particle of University merit. I am sure, from observation, that the exertion of many a Bursar ceases with his Bursary. Indeed I doubt whether, for one really able and persevering Bursar, there be not three, four, or five that merely lumber the benches, apparently content with the pitiful mess of potage that a Bursary affords. But let the suggestion that has been made be but acted upon, and the very institution that lulls to a deadening slumber will awaken to an energy of life, such as will probably be long looked for in vain in any University in Scotland, out of Aberdeen.

EXTENSION OF THE SESSION.

The present Session consists of only five months in the year; the vacation, of seven months. There would, I dare say, be no difficulty felt in extending the Session to six months, the same as in the other Universities of Scotland; but from such an extension as this, I do not anticipate any great advantage. The best mode of laying out time for profitable study appears to be, to give close and continuous application, followed by considerable intervals of relaxation. My impression from observation is, that even the present Session of only five months is too long a continuance of study for the health of Students, and sometimes of Professors. For the purpose of getting the greatest amount of work done, it seems to me desirable that there should be two Sessions in the year, each approximating to four months, with a vacation of about one month in the depth of winter, and another of about three months in the height of summer. Without some such extension, I see no way of making fully available the additional means of education to be provided for by the union. There is to be a Professor of Logic and Rhetoric. I presume that it would be easiest to find room for these branches among those at present taught, by placing a class of Rhetoric in one of the two annual sessions, and a class of Logic in the other. There is at present, in the curriculum of Arts, a class of Chemistry in the one University, and a class of Natural History in the other. If these points of superiority over the other Universities of Scotland are to be transmitted to the united University, this were probably best done by having in each of those departments of science a class for the curriculum of Arts, as well as for Medical Students during one of the two proposed annual Sessions, and, during another of them, an advanced class, chiefly for the further use of Medical Students. The only other way of effectually making out the same extent of study would be by requiring a curriculum of five Sessions, instead of four, as at present. Six sessions of five months during six years, or of five Sessions of six months during five years, or 8 Sessions of $3\frac{3}{4}$ months during four years, are each equal to 30 months of instruction. But the expense of a fifth year (to say nothing of a sixth year) would probably exceed all the class-fees for the previous four years. Indeed, as the College buildings and the endowments of Professors are provided for at the public expense, the fees of the Professors do not come to much; and under the self-denying habits that are common among the youth of Scotland, I believe that 35*l.* a-year would often be found to suffice to pay for lodging, board, class-fees, and books, during eight months of University residence at Aberdeen. The only objection that I have heard of to an extension of the Session

is, that some poor Students engaged in teaching might be less able to attend College. Now it may be readily conceded that poor Students, with genius for learning and science, should have the Universities encouragingly laid open to them. The increasing annual sum of 2800*l.* a year, most of which can be gained by open and fair competition, promises to be an ample encouragement of this kind ; and the more so, if legislative power were conferred on the University authorities to make every Bursar compete for his Bursary year by year, and to unite two or more inadequate Bursaries, with consent of the Trustees and Patrons. But with such means of providing for the University education of the promising among the sons of the poorer portion of the community, it is injustice instead of liberality if, on their account, we also adhere to an inadequate period of curriculum, abide by a mean hospital standard of education, instead of adopting a liberal University standard, and, under the pretence of admitting the sons of the poor to a University education, such as the sons of the middle classes may receive, we deprive the sons of the middle classes of any University education but such as the sons of the poor can obtain.

CONCLUSION.

The suggestions here humbly offered are intended to promote the interests of literature and science, by erecting one great University in Aberdeen out of other two that must otherwise, I fear, long remain of subordinate importance. Any person that can show that I have proposed means inadequate to this end, or that the same end may be better attained by other means, I will not consider as an opponent, but esteem as a coadjutor.

London, May 10th, 1850.

REMARKS

ON THE

CONDITION, NECESSITIES, AND CLAIMS

OF THE

UNIVERSITIES OF SCOTLAND :

WITH AN APPENDIX.

BY A GRADUATE.

LONDON :

EDWARD STANFORD, 6 CHARING CROSS, S.W.

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INTRODUCTORY NOTICE.

THE introduction into Parliament of the Lord Advocate's Universities' (Scotland) Bill, has given rise to so much misapprehension and misstatement in various quarters, as to the condition, the claims, and the necessities of these great national institutions, that it has been thought advisable to republish in a connected form the following articles on the subject, which appeared in the *Morning Post*. They may be deemed worthy of notice, not merely as having obtained the attention and the approval of persons acquainted with, and interested in, the matters of which they treat, but as projected, and partly published, long before the introduction of the Bill—as written, therefore, in great measure without reference to the views now expressed on the subject by various parties—and as emanating from an entirely disinterested source. These circumstances may be regarded as a guarantee for the impartiality of the writer. They have, however, rendered necessary the addition of a few notes on points to which present discussions have attracted notice. The fragmentary mode in which the topics are treated, and the occasional repetitions which may be observed, are owing to the circumstance of the matter having been written for the columns of a daily newspaper. It is believed that almost all the points of prime interest involved in the general question of the Reform of the Scottish Universities, (which has at last, after long and unaccountable delay, been brought before Parliament), will be found calmly and fully discussed.

Although the subject of the Parliamentary Representation of the Universities is not now under the consideration of the Legis-

lature, it has not been thought necessary to suppress those portions of the articles which relate to that important topic.

The Scottish Universities, the care of which was, in 1707, committed to, and undertaken by, the Parliament of the United Kingdom as a solemn trust, and which, as nurseries of modern science, have contributed much to the glory and power of the British empire, have long been allowed to languish in poverty and neglect. While, in other parts of the kingdom, institutions for the higher education of youth have, without any claims on the national faith or gratitude, been most liberally established and endowed, the time-honoured seminaries of Scotland have been only mocked with Commissions of Inquiry, which, although they have established by the clearest and fullest evidence the great usefulness, the indisputable rights, and the urgent wants of the Universities, have until now led to no practical result. It is hoped that the present Session will not be allowed to pass without some measure at once of Reform and Relief.

To facilitate reference on particular points, the Lord Advocate's Bill is reprinted *in extenso*. For the same reason a table of contents is given relating to the articles from the *Morning Post*, and to the Notes in the Appendix.

While these pages are passing through the press, the Lord Advocate has introduced certain important improvements into his Bill, which will be found in the Appendix.

London, June 10, 1858.

CONTENTS.

	PAGE
THE LORD ADVOCATE'S BILL	vii
ARTICLE I. <i>Nov.</i> 16, 1857.	
The Question of Scottish University Reform attracting notice in Scotland—Reference to the Opinions of Professor Blackie of Edinburgh, and of Mr. Inglis, Lord Rector of the University and King's College, Aberdeen, now Lord Advocate	1
ARTICLE II. <i>Dec.</i> 28, 1857.	
Remarks suggested by a Memorial presented to Lord Palmerston in favour of the Representation in Parliament of the Educated portion of the Community—Special Claims of the Unrepresented Universities	4
ARTICLE III. <i>Jan.</i> 2, 1858.	
Same subject continued—Reply to Objections	8
ARTICLE IV. <i>Jan.</i> 4, 1858.	
Great Meeting of Scotch University Reformers at Edinburgh, under the presidency of Lord Campbell—Necessity of Matriculation Examination for Students	12
ARTICLE V. <i>Jan.</i> 8, 1858.	
Same subject continued—Lord Elcho's Suggestion in relation to a "University of Scotland"	16
ARTICLE VI. <i>Jan.</i> 30, 1858.	
Second Great Meeting of Scottish University Reformers, under the presidency of Sir John M'Neill, G.C.B., to advocate the Incorporation and Privileges of the Graduates—Importance of this Object with a view to the Elevation of the Standard of Education in the Seminaries of Scotland—Injurious Effects of the present Inadequate Incomes of many of the Professors—The Scottish Universities have a Claim in Justice on the National Purse	24
ARTICLE VII. <i>Feb.</i> 2, 1828.	
Necessity for a Grant of Public Money, and Objects to which it ought to be applied—Treatment of the	

	PAGE
National Universities of Scotland, contrasted with that of Maynooth and the Queen's Colleges in Ireland	24
ARTICLE VIII. <i>Feb. 23, 1858.</i>	
University Representation in Parliament—Nature of the Constituency and Arrangements for Polling	28
ARTICLE IX. <i>April 28, 1858.</i>	
Universities' (Scotland) Bill—General View of the Bill in its bearings on the Constitution—Finances, and National Usefulness of the Universities	33
ARTICLE X. <i>May 13, 1851.</i>	
Universities' (Scotland) Bill—University Courts, &c.	37
ARTICLE XI. <i>May 22, 1858.</i>	
Universities' (Scotland) Bill—University Courts—General Councils—Powers of the Royal Commission to be appointed under the Bill—Definition of term "Graduates"	42
ARTICLE XII. <i>May 27, 1858.</i>	
Universities' (Scotland) Bill—Fusion of the Universities and Colleges of Aberdeen	46
ARTICLE XIII. <i>June 2, 1858.</i>	
Universities' (Scotland) Bill—Aberdeen Question continued—Peculiar Position of the University of Edinburgh with respect to the Town Council—Unfitness of the Town Council for the Government of a University	51
ARTICLE XIV. <i>June 8, 1858.</i>	
Opposition to the Lord Advocate's Bill of the Majority of the Glasgow Professors	55
<hr/>	
NOTE FIRST :—Lord Elcho's Letter to Lord Campbell on Scottish University Reform	59
NOTE SECOND :—Alleged failure of Candidates from Scotland at the Competitive Examinations for Public Appointments	61
NOTE THIRD :—Queen's University and Queen's Colleges in Ireland	61
NOTE FOURTH :—Incomes of Scottish Principals and Professors	64
NOTE FIFTH :—The Edinburgh Town Council, and its absolute Dominion over the University of Edinburgh	66
LORD ADVOCATE'S proposed Amendments in his Bill.	69

B I L L

To make Provision for the better Government and Discipline of the Universities of Scotland, and Improving and Regulating the Course of Study therein; and for the Union of the Two Universities and Colleges of Aberdeen.

[*The clauses to be amended by the Lord Advocate are distinguished by an asterisk. The proposed Amendments will be found in the Appendix.*]

ARRANGEMENT OF CLAUSES.

1. King's College and Marischal College, Aberdeen, to be united under Title of "University of Aberdeen."
 2. Appointment of Chancellors.
 3. University Courts to be constituted.
 - *4. Powers of Senatus Academicus and Principal.
 - *5. General Councils of the Universities to be constituted.
 - *6. General Council of the University of Aberdeen.
 - *7. St. Andrews University Court, of whom to consist.
 - *8. Glasgow University Court.
 - *9. Aberdeen University Court.
 - *10. Edinburgh University Court.
 11. Supply of Vacancies in Offices of Rector or Assessor.
 - *12. Powers of University Courts.
 13. Right of Nomination to Professorships vested in University Courts.
 14. Commissioners appointed.
 - *15. Powers of Commissioners.
 - *16. Powers of Commissioners with respect to University of Aberdeen.
 17. Statutes may be altered or revoked.
 18. Queen may issue Instructions during the Subsistence of the Commission.
 19. How Parliamentary Grant to be applied.
 20. Treasury may grant Money for Payment of Salaries, &c.
 21. Commissioners under this Act specially to regard Reports of Commissioners for visiting Universities of Scotland, and to report to Parliament.
 22. Interpretation.
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[*Preamble.*]—Whereas it is expedient for the advancement of religion and learning, to make provision for the better government and discipline of the Universities in Scotland, viz. the Universities of St. Andrews, Glasgow, Aberdeen, and Edinburgh, and for improving and regulating the course of study therein: Be it enacted by

the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

I. [*King's College and Marischal College, Aberdeen, to be united under title of "University of Aberdeen."*—That from and after such date as may be fixed by the Commissioners hereinafter appointed by special Ordinance, approved by Her Majesty in Council, the "University and King's College of Aberdeen," and "Marischal College and University of Aberdeen," shall be united and incorporated into one University and College, in all time coming thereafter, under the style and title of the "University of Aberdeen;" and the said united University shall take rank among the Universities of Scotland as from the date of erection of King's College and University, viz. the year One thousand four hundred and ninety-four, and all the funds, properties, and revenues now pertaining or belonging in any manner of way to the "University and King's College," or to "Marischal College and University," shall in time coming thereafter pertain and belong to the "University of Aberdeen."

II. [*Appointment of Chancellors.*—The Chancellor of each of the Universities of St. Andrews, Glasgow, and Aberdeen shall be appointed in the same manner as at present; and in time coming there shall be a Chancellor of the University of Edinburgh, to be appointed by Her Majesty: Provided always, that the present Chancellor of the University and King's College of Aberdeen, and the present Chancellor of Marischal College and University of Aberdeen, shall, during their joint lives, be joint Chancellors of the University of Aberdeen, and the survivor shall be sole Chancellor during his survivance, and thereafter a Chancellor shall be appointed in manner herein provided: Provided also, that the Chancellor of each of the said Universities shall hold his office for life.

III. [*University Courts to be constituted.*—From and after the date at which this Act shall come into operation, there shall be constituted in each of the said Universities a University Court, which shall consist of the members and possess and exercise the powers hereinafter enacted, and of which the Rector shall be the ordinary President, with a deliberative and a casting vote.

*IV. [*Powers of the Senatus Academicus and Principal.*—The Senatus Academicus of each of the said Universities shall consist of the Principal or Principals and whole Professors in each University, and shall continue to possess and exercise the powers heretofore belonging to a Senatus Academicus, in so far as the same are not modified or altered by or in pursuance of the provisions of this Act; and the Principal, or the Senior Principal, if more than one, shall be the ordinary President of the Senatus Academicus, with a deliberative and a casting vote; and the Principal shall have the constant and ordinary inspection of the Professors in the discharge of their duties, with power at all times to superintend and visit the several classes, and shall be bound to visit each class not less than *twice* each session.

*V. [*General Councils of the Universities to be constituted.*—

There shall be in each University a General Council, consisting of the members of the University Court, of the Professors, and of all Graduates whose names stand registered as such on the books of the University, which shall assemble *twice* every year, on such days as may be fixed by the Commissioners herein-after appointed, subject to alteration thereafter from time to time by resolution of the said Council, and with power of adjournment; at the meetings of which Council the Chancellor, and in his absence the Rector, whom failing, the Principal or Senior Principal, whom failing, the Senior Professor, shall preside, and shall have a deliberative and also a casting vote: it shall be competent to such Council to take part in the election of Office-bearers of the University in manner herein-after provided, and also to take into their consideration all questions affecting the well-being and prosperity of the University, and to make representations, from time to time, on such questions to the University Court, who shall consider the same, and return to the Council their deliverance thereon.

*VI. [*General Council of the University of Aberdeen.*—That the General Council of the University of Aberdeen shall consist of the members of the University Court, of the Professors, and of all the Graduates who at the date of the union herein-before provided shall stand registered in the books of the University and King's College, and in the books of Marischal College and University, and of all future Graduates of the University of Aberdeen.

*VII. [*St. Andrews—University Court, of whom to consist.*—The University Court of the University of St. Andrews shall consist of the following members; viz.—

1. A Rector, to be elected by the General Council of the University;
- 2 and 3. The Principals of the two Colleges;
4. An Assessor to be nominated by the Chancellor;
5. An Assessor to be nominated by the Rector;
6. An Assessor to be elected by the General Council:

Three shall be a quorum; and the Rector and the Assessors shall continue in office for *four* years; and no Principal or Professor of any University shall be eligible to the office of Rector or Assessor.

*VIII. [*Glasgow—University Court, of whom to consist.*—The University Court of the University of Glasgow shall consist of the following members; viz.—

1. A Rector, to be elected by the General Council of the University;
2. The Principal;
3. The Dean of Faculties;
4. The Minister of Glasgow for the time being, not being the Principal or a Professor;
5. An Assessor to be nominated by the Chancellor;
6. An Assessor to be nominated by the Rector;
7. An Assessor to be elected by the General Council of the University:

Neither the Rector nor any of the three Assessors shall be a Principal

or Professor of any University. The Rector and the three Assessors shall continue in office for *four* years; and *three* members of the University Court shall be a quorum. The office of Vice-Chancellor is hereby abolished; and the Rector, Dean of Faculties, and Minister of Glasgow shall no longer exercise any right or power as ordinary visitors other than is or may be conferred on them as members of the University Court.

*IX. [*Aberdeen—University Court, of whom to consist.*].—The University Court of the University of Aberdeen shall consist of the following Members; viz.—

1. A Rector, to be chosen by the General Council of the University;
2. The Principal;
3. An Assessor to be nominated by the Chancellor;
4. An Assessor to be nominated by the Rector;
5. An Assessor to be elected by the General Council of the University:

Three shall be a quorum. The Rector and the Assessors shall continue in office for *four* years; and no Principal or Professor of any University shall be eligible to the office of Rector or Assessor.

*X. [*Edinburgh—University Court, of whom to consist.*].—The University Court of the University of Edinburgh shall consist of the following members; viz.—

1. A Rector, to be elected by the General Council of the University;
2. The Principal;
3. An Assessor to be nominated by the Chancellor;
- 4 and 5. Two Assessors to be nominated by the Lord Provost, Magistrates, and Town-Council of Edinburgh;
6. An Assessor to be nominated by the Rector.
7. An Assessor to be elected by the General Council of the University:

And no Principal or Professor of any University shall be eligible to the office of Rector or Assessor: and the Rector and Assessors shall continue in office for *four* years, and *three* members of the University Court shall be a quorum.

XI. [*For Supply of Vacancies in offices of Rector or Assessor.*].—In the case of vacancies in the office of Rector or Assessor occurring by death, resignation, or supervening incapacity betwixt the regular periods for election, the vacancies shall be filled up by the same electors for the remainder of the period unexpired.

*XII. [*Powers of University Courts.*].—The University Court of each University shall, subject to the provisions of this Act, have the following powers; viz.—

1. To review all decisions of the Senatus Academicus, and to be a Court of Appeal from the Senatus in every case except as herein otherwise provided for;
2. To effect improvements in the internal arrangements of the University, after due communication with the Senatus Academicus, and with the sanction of the Chancellor:

3. To require due attention on the part of the Professors to regulations as to the mode of teaching and other duties imposed on the Professors:
4. To fix and regulate from time to time the fees in the several classes:
5. After due investigation, to censure a Professor, or to suspend him from his office and from the emoluments thereof, in whole or in part, for any period not exceeding one year, or to require him to retire from his office on a retiring allowance, or to deprive him of his office; and during the suspension of any Professor to make due provision for the teaching of his class:
6. After due investigation, to censure, suspend, or remove Librarians, Janitors, and other inferior officers of the University:
7. To inquire into and control the revenue, expenditure, and all the pecuniary concerns of the University, including funds mortified for Bursaries and other purposes.

XIII. [*Right of Nomination to Professorships vested in University Courts.*].—The right of nomination or presentation to any Professorships within any of the said Universities, in time past and presently exercised by the Senatus or Faculty thereof, or by one or more of the Professors therein, or by any member or other officer thereof, shall be transferred to and in all time coming be exercised, as regards each University, by the University Court thereof, to be established in manner herein-before provided.

XIV. [*Commissioners appointed. Queen may fill up Vacancy. Declaration of Powers of Commissioners.*].—The following persons; (that is to say,)

shall be Commissioners for the purposes of this Act, and shall have a common seal; and of the said Commissioners shall be a quorum; and the Commissioners may elect one of their number to be their permanent Chairman, and the permanent Chairman, or, in his absence, one of the Commissioners elected and acting as Chairman at any meeting, shall have both a deliberative and a casting vote. If any vacancy occurs in the number of the Commissioners by means of death, resignation, or incapacity to act, Her Majesty may fill up such vacancy, by warrant under the sign manual. The powers hereby conferred on the Commissioners shall be in force until the *first day of January, One thousand eight hundred and sixty-two*; and it shall be lawful to Her Majesty, by and with the advice of Her Privy Council, to continue the same until the *first day of January One thousand eight hundred and sixty-three*, and no longer.

*XV. [*Powers of Commissioners.*].—The Commissioners shall possess and exercise the following powers; viz.—

1. [*To cite and examine Office Bearers in Universities, and require Production of Documents and Accounts.*].—To call before them the respective Principals, Professors, Regents, Masters, and others bearing office in the said Universities; viz. the University of St. Andrews, the University of Glasgow, the University and King's College of Aberdeen, the University of Edinburgh, Marischal College and University of Aberdeen, and to examine them as to all rules and ordinances now in force in the said Universities; and to require the production of all documents and accounts relating to any of the said Universities or Colleges:
2. [*To revise the Foundations, &c., and to alter Trusts.*].—To revise the respective Foundations, Mortifications, Bursaries, and Donations bestowed on any of the said Universities or Colleges, or for the benefit of any Professors, Students, or others therein; and further, if in the case of any such gift or endowment which has taken effect for more than *fifty* years, and has been held by any of the said Universities or Colleges, or by any other person in trust for or on behalf of the same or of any persons therein, it shall appear to the Commissioners that the interests of religion and learning and the main design of the donor may be better advanced by an alteration of the conditions or directions affecting such gift or endowment, it shall be lawful to the Commissioners to alter or modify such conditions or directions, and to frame a new Statute or Ordinance for the application of such gift or endowment, in such manner as may better advance the purposes thereof:
3. [*To regulate the Powers of Office Bearers.*].—Subject to the provisions of this Act, to regulate the powers, jurisdictions, and privileges of Chancellors, Rectors, Assessors, Professors, and all other members or office bearers in the said Universities and Colleges, as also of the Senatus Academicus, the General Council, and the University Court, and their Meetings, as well with respect to the government, policy and discipline of the University as to the management and disposal of the revenues and endowments thereof, with power to abolish unnecessary offices.
4. [*To regulate Elections of University Officers.*].—Subject to the provisions of this Act, to make regulations as to time, place, and manner of presenting and electing all University Officers: Provided always, that the existing rights of nomination or presentation to any professorships shall not, except in so far as herein expressly otherwise provided, be thereby affected:
5. [*To regulate Course of Study, Exaction of Fees, &c.*].—To make rules for the management and ordering of the said Universities, the manner and conditions in and under which students shall be admitted thereto, the course of study, and

manner of teaching therein, the amount and exaction of fees, the manner of examination, with the qualifications, appointment, and number of examiners, and the amount and manner of their remuneration, the granting of degrees, whether in arts, divinity, law, or medicine, and to provide that, in so far as shall be practicable, and in the opinion of the Commissioners conducive to the well-being of the Universities, and to the advancement of learning, the course of study, the manner of examination, and the conditions under which degrees are to be conferred, shall be uniform in all the Universities of Scotland :

6. [*To found Professorships and provide for Assistants.*].—To found new Professorships where they are required, and to provide for the appointment of assistants to such Professors as from the nature and duties of their professorships require assistance, and to provide for the remuneration of such assistants, and to provide by whom the right of presenting or appointing such new Professors and Assistants shall be exercised :
7. [*To provide for the due Administration of Revenues and Endowments.*].—To make such provision as the Commissioners shall see fit, as well for the due preservation, administration, and disposal of the whole property, funds, rents, revenues, and endowments, as for the preservation and maintenance of all the fabrics and buildings of or connected with the Universities, and for the better custody and management of any libraries and museums thereto belonging, or of the contents thereof, and of any furniture, apparatus, or objects acquired or to be acquired for the use of the University, or of any class therein :
8. [*To provide for the Extinction of Debt.*].—To provide, as the Commissioners shall judge expedient, by means of any of the funds, property, rents, revenues, and endowments of any University, for the payment and extinction of any debts forming a present burden on such rents, revenues, or endowments respectively :
9. [*To fix Date when Act shall come into operation.*].—To provide by special ordinance, to be approved of by Her Majesty in Council, at what date, with reference to each of the said Universities, the provisions of this Act shall come into operation :

Provided always, that until such ordinance shall be made and approved of each of the said Universities shall be governed and conducted according to the present law and practice: Provided also, that all ordinances and rules to be made by the Commissioners in virtue of the powers herein conferred shall be published in the *Edinburgh Gazette* at least one month before the same shall come into operation.

*XVI. [*Powers of Commissioners with respect to University of Aberdeen. To determine Number of Professors, and regulate Course of Study.*].—Without prejudice to any of the powers herein-before con-

ferred, the said Commissioners shall, with respect to the University of Aberdeen, possess and exercise, subject to the provisions of this Act, the following powers :

1. To determine the number of Professors, and to prescribe and regulate the course of study in the several faculties of Arts, Divinity, Law, and Medicine : Provided, that in the Faculty of Arts there shall be a Professor of Greek, a Professor of Humanity, a Professor of Logic, a Professor of Mathematics, a Professor of Moral Philosophy, a Professor of Natural Philosophy, and a Professor of Natural History ; in the Faculty of Divinity there shall be Professors of Systematic Theology, of Oriental Languages, of Church History, and of Biblical Criticism ; in the Faculty of Law a Professor of Law ; and in the Faculty of Medicine Professors of the Theory and Practice of Medicine, of Chemistry, of Anatomy, of Surgery, of Materia Medica, of Midwifery, of Medical Jurisprudence, of Botany ; and such other Professorships in each of the said Faculties as the said Commissioners shall think to be expedient :
2. [*To abolish Offices rendered unnecessary by the Union, &c.*]—To abolish such Professorships and other offices within the said University as are rendered unnecessary by the union of the two Universities and Colleges, or to conjoin Two or more of such Professorships ; and, having regard as far as practicable to the main design of any existing gift or endowment of such Professorships or other offices, to make such other arrangements respecting such Professorships and other offices as may seem expedient ; and, having regard as aforesaid, to appropriate the funds and revenues belonging or payable to the holders of such Professorships or other offices, after the death, resignation, or deprivation of any of the present Incumbents, to any of the purposes within the said University to which by this Act the moneys directed to be paid out of the Consolidated Fund of the United Kingdom may be applied :
3. [*To accept Resignations, &c.*]—To accept resignations of the existing Incumbents of such Professorships as they may think fit to abolish, and to make arrangements of the appointment of such Incumbents to other Professorships or other offices in the said University :
4. [*To determine Right of Patronage.*]—To determine in whom for the future shall be vested the Patronage or Right of presenting Professors to each of the Chairs in the said University, having regard as far as possible to the Preservation of the existing Rights of Patronage :
5. [*To make Arrangements as to Buildings of United Colleges.*]—To make arrangements and regulations as to the uses and purposes to which the Buildings of King's College and Marischal College respectively shall be appropriated :
6. [*To make all necessary Rules, &c.*]—To make all such Rules and

Ordinances as may be necessary for the good Order and Government, and regulating the Course of Study in the said University.

Provided always, that all Rules and Ordinances to be made by the Commissioners in virtue of the Powers herein conferred shall be published in like manner as is provided with respect to the Rules and Ordinances to be made in the exercise of the Powers conferred on them as regards the whole of the said Universities.

XVII. [*Statutes may be altered or revoked.*].—During the subsistence and exercise of the powers of the Commissioners, the Powers herein-before conferred on the University Courts shall be exercised in subordination to and so as not to conflict with the Powers of the Commissioners: But any of the Rules, Statutes, and Ordinances to be framed and passed by the Commissioners as herein-before provided may, at any time after the expiration of the Powers herein conferred on the Commissioners, be altered or revoked by the University Court of the University to which the same are applicable, but only with the consent, expressed in writing, of the Chancellor thereof, and with the approval of Her Majesty, signified by an Order in Council.

XVIII. [*The Queen may issue Instructions during the Subsistence of the Commission.*].—It shall be the duty of the Commissioners herein appointed to take into their deliberate consideration any matters connected with the said Universities to which their attention may be at any time called by instructions issued to them by Her Majesty's command.

XIX. [*How Parliamentary Grant to be applied.*].—Commissioners of Her Majesty's Treasury shall be empowered, by warrant under the hands of any three or more of them, to charge the Consolidated Fund of the United Kingdom of Great Britain and Ireland (after providing for all preceding Charges, but having preference of all future Charges), and to direct to be issued or paid thereout, by Four equal Quarterly Payments, on the fifth day of January, the fifth day of April, the fifth day of July, and the tenth day of October in every year, such Sums of Money, not exceeding in all the Sum of

in any one year,

as the Commissioners herein appointed shall recommend to be paid for any one or more of the following purposes; (that is to say,)

1. For providing retiring Allowances to aged and infirm Principals and Professors;
2. For providing additional Teaching by means of Assistants to the Professors in any Professorships already established or to be established;
3. For providing Remuneration to the Examiners appointed in pursuance of this Act;
4. For increasing the Salaries presently attached to existing Professorships and to any other offices in the University;
5. For the Endowment of new Professorships:

And it is hereby provided that the whole of such Payments shall be subject to whatever Rules, Statutes, and Ordinances the Commis-

sioners herein appointed shall from time to time, with the aforesaid approval of Her Majesty, see fit to prescribe in reference thereto.

XX. [*Treasury may grant Money for Payment of Salaries, Travelling Expenses, &c.*].—It shall be lawful to the Commissioners of Her Majesty's Treasury to grant from time to time, out of any Moneys to be provided by Parliament for that purpose, such Sums as shall to them appear necessary, for the following purposes; (that is to say,)

1. For the Salary or other Remuneration of any Clerks or other Officers to be appointed by the Commissioners herein named, with the consent of the said Commissioners of Her Majesty's Treasury;
2. For the expense of providing any Office Accommodation for the use of the Commissioners herein named, and of defraying cost of books, stationery, printing, postages, and other necessary expenses connected with the same;
3. For defraying the whole reasonable Travelling Expenses which may be incurred by the Commissioners herein named, or by any clerk or other officer in their service, in the execution of the powers herein conferred.

XXI. [*Commissioners under this Act specially to regard Reports of Commissioners for visiting Universities of Scotland, and to report to Parliament.*].—The Commissioners herein appointed shall, in the exercise of their powers, have special regard to the Reports presented by the Commissioners acting under the several Commissions for visiting the Universities of Scotland; viz. a Commission issued by His Majesty King George the Fourth on the twenty-third day of July one thousand eight hundred and twenty-six, renewed by His Majesty King William the Fourth on the twelfth day of October one thousand eight hundred and thirty; a Commission issued by His Majesty King William the Fourth on the twenty-third day of November one thousand eight hundred and thirty-six, re-appointed by Her present Majesty on the second day of October one thousand eight hundred and thirty-seven; and a Commission issued by Her present Majesty on the sixteenth day of April one thousand eight hundred and fifty-seven: And they shall transmit to one of Her Majesty's principal Secretaries of State, in order to its being laid before Parliament, a copy of any Rules, Statutes, and Ordinances framed by them, and approved of by Her Majesty, and the particulars respecting any payments made or recommended by them to be made by the Commissioners of Her Majesty's Treasury, out of any moneys directed by this Act to be paid out of the Consolidated Fund of the United Kingdom, and out of any moneys voted by Parliament for any of the purposes of this Act; and shall further, if they see cause, or are required thereto by Her Majesty in Council, report to Parliament respecting any of the other matters hereby to them committed.

XXII. [*Interpretation.*].—The word "University" shall include College, unless the contrary appears from the context; the word "Graduates" shall mean all persons who have obtained and hold the degree of Master of Arts, and no other persons.

REMARKS, &c.

ARTICLE I.

16th NOVEMBER, 1857.

The Question of Scottish University Reform attracting more notice in Scotland—Reference to the Opinions of Professor Blackie of Edinburgh, and of Mr. Inglis, Lord Rector of the University and King's College of Aberdeen, now Lord Advocate.

A WHOLESOME, enlightened, and loudly-called-for agitation, is now going on in favour of a regeneration of the Universities of Scotland. Most of the leading spirits of the North, keeping altogether clear of religious and political objects of sectional or sectarian character, have embarked very heartily in this good cause. It is well that it is so; but it had been far better for the social progress of Scotland that the movement to which we now direct attention had attained its present vigour at an earlier date.

The immense educational reforms which have been recently introduced into the Universities of Oxford and Cambridge, and the advantages now so freely offered to the public by the University of London, tend in no small degree to deprive the Scottish Universities of their ancient *prestige* for practical teaching. The greater extension of the benefits of the English University system to different classes and creeds, has likewise deprived the Scottish University system of its former special pre-eminence on the ground of religious toleration. Under these altered circumstances, if the Scottish Universities are to be maintained in a condition of national usefulness, they must have an improved system of instruction; a permanent connexion between the graduate and his *alma mater*; a more adequate endowment of many of the professorships, and a more liberal provision, by means of bursaries or fellowships, for distinguished students. Unless something be promptly done in these directions, not only will the Scottish Universities lag behind the spirit of the age, but they

will rapidly decline from their present position. To Professor Blackie of Edinburgh, above all others, the public is specially indebted for the urgency and frequency with which he has proclaimed this opinion, and other opinions of equal importance in relation to the subject of Scottish University Reform.*

Professor Blackie, at a General Meeting of the "Association for the Improvement and Extension of the Scottish Universities," held at Edinburgh on Saturday week, moved the following resolution:—"That the recent Academical reforms in Oxford and Cambridge all point in a direction that must tend seriously to affect the prosperity of the Scottish Universities, unless immediate steps be taken to put our native institutions in a condition to contend against the combined influence of the ancient resources and the new energies of the English Universities." The learned Professor, in the course of the speech by which he supported the resolution, after stating that reforms introduced into the English Universities since the "Association for the Improvement and Extension of Scottish Universities" was originally constituted, had rendered the active exertions of that Association more imperative than ever, made the following rather surcharged, but not irrelevant, retrospective allusions:—

"When the Scottish Universities were most flourishing—when Dugald Stewart, and Playfair, and others taught in them—the English Universities were at a particularly low ebb. Jeffrey and other illustrious Scotsmen went to Oxford only to despise the pedantic learning which was then required and cultivated there. Everything there was uninspired; any originality was preferable to the cramming of the four plays of Porson, and the metrical puzzles of the colleges. But these frivolities now no longer form the staple of Oxford education—and, moreover, the whole constitution of Oxford has been changed for the better. It is perfectly plain that the Scottish Universities could not remain unaffected by these changes, because the English Universities had in their favour the commanding *prestige* of fashion, and the still more potent influence of gold."

The first step towards the introduction of a better system of education into the Scottish Universities will be the establishment of an examination previous to matriculation. At present, lads who do not know the Greek alphabet take their places on the same benches with students who have made considerable progress in the language. Between the youth who is entirely ignorant of Greek, and the student who has made respectable advances in its study, there are others, possessed of every variety in the scale of competence. It is clearly

* The writer, as will afterwards appear, does not adopt all of Professor Blackie's opinions and statements.

impossible for a professor to address *ex cathedrâ* so incongruous a class in an instructive manner. What applies to the Greek chair applies to all the chairs—the professor is obliged to address a set of young men regarding the extent of whose ability to profit by his prelections he has no manner of judging, but regarding whom he generally knows, that if he were to pitch the tone of his lectures on a level sufficiently low for a considerable number of his pupils, he would bring his teaching into contempt with many in his class. The very first reform, therefore, which is required in the educational system of the Scottish Universities, is the institution of a matriculation examination, so that all *alumni* should, on their admission, be certified to possess a certain minimum amount of knowledge of classics, mathematics, history, logic, moral philosophy, and of the English language and literature. It is a disgraceful, but nevertheless a notorious, fact, that every year men graduate as Doctors of Medicine at Edinburgh, Glasgow, and Aberdeen, who, by their writings and conversation, are evidently destitute of the elements of a sound English education. Such persons rarely succeed in life; and they always injure their profession and the cause of learning by presenting to the public gross ignorance and the highest academic honours as co-existing in their persons. Of course, in fixing the minimum standard of the preliminary examination, it would be needful at first to begin at a very low point, and to go on advancing slowly. This would enable the schools to adapt themselves to the increasing requirements of the Universities, without any injurious pressure in any quarter. The greater strictness which has generally been introduced into the competitive examinations for the bursaries at Aberdeen, has been the means of raising the character of many of the preparatory schools to a corresponding level. If a minimum test of knowledge were exacted from all candidates for admission to study at the Scottish Universities, not only would the cause of University education be promoted, but a great impulse would be given to all the schools in Scotland. The necessity to provide a higher class of teachers would be irresistibly felt.

To prevent the possession of the minimum amount of knowledge being estimated at more than its worth, additional rewards for proficiency, in the form of bursaries, scholarships, or fellowships, ought to be instituted. The existing inducements of this description are at present very inadequate, especially at Edinburgh. The higher rewards ought chiefly to be bestowed by competitive trials during university studentship, and the smaller rewards at the matriculation examination.

While it is neither desired, nor in itself desirable, to assimilate the Scottish to the English University system, it would be well to bring the former into harmony with the latter in several respects; and, among others, in respect to the incorporation of graduates as members of their respective Universities. This is a reform which we have often advocated, and which was admirably brought forward by Mr. Inglis (Dean of Faculty) in the address which he recently delivered at Aberdeen, upon the occasion of his inauguration as Lord Rector of the King's College and University.* Improved discipline and more decorum are urgently wanted in some, perhaps in all, of the Universities. The extreme youth of many of the students, whom the depressed circumstances of the professors induce them to admit to the college classes at an age at which they are more fit for schools, has exercised an unfavourable effect on academic order; and although we believe the average age of intrants is gradually rising, yet, even in the University of Edinburgh, the *genius loci* is sometimes driven from his shrine by outbursts of boyish riot. It is not only, however, the Edinburgh students who cannot behave themselves. At the present moment, two medical professors have a notorious feud about the clinical lectures. Every day last week it was expected that the two rival professors would appear at the same hour, and in the same room, to deliver a lecture on the medical cases in the hospital, each professor being backed by his own tail of pupils. All this is very sad, and points out very clearly how radical is the reformation required in the government as well as in the educational system of the famous University of Edinburgh.

ARTICLE II.

28th DECEMBER, 1857.

Remarks suggested by a Memorial presented to Lord Palmerston in favour of the Representation in Parliament of the Educated portion of the Community—Special Claims of the Unrepresented Universities.

WE recently published a memorial, numerous signed by influential persons of all political parties, in favour of the representation in the House of Commons of the educated portion of the

* Now Lord Advocate.

community—a document which, it is stated, has been transmitted to Lord Palmerston. The principle espoused is undoubtedly sound. We are not, however, prepared to admit that all the details by which the memorialists propose to carry out that principle are free from objection. Still, we are glad to see so much concurrence of opinion in a galaxy of men of various political opinions, as to the necessity for enfranchising the intellect of the nation, because we regard this as a question not of party but of patriotism. We have always maintained that educational *status* ought to constitute a right to political privilege; and that manifold benefits would result from a larger amalgamation of the intellectual with the commercial and political elements of our national greatness. Indeed experience has shown it to be a great evil, that the present *criteria* of fitness to vote at parliamentary elections exclude a large amount of the intelligence and worth of the country from participating in that privilege. We apprehend that, when the question is debated in the House of Commons in February, there will be little difference of opinion as to the necessity for doing something in the direction proposed by the memorialists; while much variety of sentiment will be indicated as to the degree and the manner in which the remedy ought to be applied to the existing evil.

The memorialists, for the better giving effect to their principle, propose that a distinct and separate representation should be granted to those persons upon whom the educational franchise is conferred. The object of this arrangement is to prevent their votes from being swamped, which it is asserted they would be, “if only enfranchised as units in large popular constituencies.” The proposed qualifications for the educational franchise are arranged in eight classes, viz. Religion, Law, Medicine, Army, Navy, East India Company’s Service, Learning and Education, Literature, Science, and Art. Under *Religion* are placed clergymen of the Church of England, ministers of the Established, Free, and Episcopal Churches of Scotland, and ministers of other denominations throughout Great Britain serving any registered place of worship, about 30,007; under *Law*, advocates in ecclesiastical courts, barristers-at-law, special pleaders, equity draftsmen, conveyancers, proctors, solicitors, members of the Edinburgh Faculty of Advocates, writers to the signet, about 17,269; under *Medicine*, persons recognised by law as legitimately practising medicine and surgery, about 13,000; under *Army*, half-pay officers, retired officers on full-pay, retired officers who have held her Majesty’s commission, about 9205; under *Navy*, half-pay officers and retired officers, about 3665; under *East India Company’s Service*, retired military and civil officers, about 1680; under *Learning*

and Education, all professors and graduates of universities, and all certificated schoolmasters (an increasing class), about 12,396; and, lastly, under *Literature, Science, and Art*, fellows of the Royal Societies of London and Edinburgh, fellows who have served one year in the councils of chartered scientific and literary societies, fellows who have served in councils or committees of unchartered scientific and literary societies, (such societies to be registered, on proof before the Committee of Privy Council that they are devoted exclusively to those objects), members of the general committee of the British Association for the Advancement of Science, Royal Academicians of London and Edinburgh, and artists who have served on the councils of Art Societies, fellows of the Institutes of Architects and Engineers, members of the Institute of Actuaries, the existing presidents and acting secretaries of institutions for the promotion of knowledge (on proof before the Committee of Privy Council that they are devoted exclusively to the promotion of knowledge), members of the Royal Society of Literature, or of a Literary or Authors' Institute (should such an institute be formed), about 5396. The total of the eight classes is 92,618. It is proposed to allot to this constituency seventy members. It is not intended to distribute these members among the recipients of the educational franchise according to their classes or professions. The constituencies are to be *territorially* arranged on a population basis, according to a plan of which the following is a summary:—For England, 56; for Wales, 3; and for Scotland, 11;—total, 70. It seems to be suggested, that it would not be amiss to give these seventy members to the new educational constituencies at the expense of the small boroughs, at present so much and so capriciously represented above their deserts.

We have stated the above as the principal part of the plan of the memorialists, partly from the memorial itself, and partly from a pamphlet published in 1853, referred to in, and transmitted with, the present memorial to the Prime Minister. This pamphlet will well repay perusal. Without identifying ourselves with all the opinions which it contains, we may safely say that it is thoughtful, clearly expressed, and statesmanlike.

There is one feature in the plan which we particularly dislike; we refer to the non-recognition of the propriety of extending distinctive University Representation. This extension cannot well be omitted from any scheme of Parliamentary Reform. It is a kind of representation of learning and education which is already part of the constitution; and it is worthy of particular notice that, although

there are only four University seats in the House of Commons, a very large proportion of England's greatest statesmen have, at one period or another of their careers, occupied these seats. As regards the University of London, statesmen of all parties—Lord Derby, Mr. Disraeli, Sir James Graham, Lord Aberdeen, Lord Brougham, Lord John Russell, and the late Mr. Hume—have all testified in favour of its being created a Parliamentary constituency, in redemption of the promise given when the first charter was conferred, to the effect that it was to have all privileges, excepting those connected with the clerical profession, then enjoyed by the Universities of Oxford and Cambridge. The Committee of London Graduates drew a bill for giving the franchise to their university, and it is a fact that the clauses of that bill were introduced into the Reform Bill of Lord John Russell, which was withheld in consequence of the pressure upon Parliament of the exigencies of the Russian war. The causes, we believe, which have hitherto prevented the extension of the franchise to the graduates of the University of London were the fewness of their number, and their non-incorporation as members of the University. The latter objection will be obviated by the new charter about to be granted, and the former has long ceased to exist. At present the body of graduates exceeds the collective constituencies of twenty-eight boroughs, now represented in Parliament by one or two members each. The graduates of the Scottish Universities ought also to be enfranchised as one or more parliamentary constituencies.

The *universality* of a university constituency renders it free from the objection which is generally, and we think properly, felt to the erection of classes and professions into distinct and separate bodies of voters. We concur with the memorialists in reprobating every such plan. We do not agree with them, however, in thinking that it would be so certainly conducive to the public weal as they suppose it would be, to separate from the rest of the electors an educated body of 92,618 persons for the purpose of returning seventy members to the House of Commons. At present our impression is, that it would be far better to blend the vast majority of those holding the educational franchise with the general body of electors. There is undoubtedly something to be said as to the danger of swamping the educational by means of the non-educational votes. We think that this danger is over-estimated. The two classes need not be, and are not likely to be, politically opposed to each other on all leading questions. Besides, it is not expedient to divide the people into two distinct orders. Better far to aim at an amalgamation than at a separation of the ele-

ments of society. “A little leaven leaveneth the whole lump.” The number of educated voters who would be added to many constituencies by the adoption of the qualifications which we have above recapitulated would be large, and could not fail to improve and elevate the tone of the entire electoral body, which ought to be a leading aim. At the same time it might be expedient to give a very liberal allowance of members to Universities, and, perhaps, to erect a few other distinct intellectual constituencies. One of the growing defects of the House of Commons might in this way be partially corrected—the superabundance of local celebrities, and the paucity of national statesmen.

We are prepared to hear objections to the extension of the franchise upon the wide basis of qualification advocated by the memorialists. We shall, no doubt, be told that in these days of educational progress, there is nothing in the plan ultimately to exclude petty shopmen, artizans, mechanics, agricultural labourers, and even the *élite* of Costermongria, as that classical district of London has been called in which the schools of Goswell Street and Golden Lane are situated. We fully admit this; but it is for that very reason that we hail this movement as at once free from the most shadowy taint of exclusiveness, and as being in the truest sense of the term Conservative. The educational franchise, liberally bestowed, would, we are firmly persuaded, be one of the noblest bulwarks of the constitution under which it is our happiness to live.

ARTICLE III.

2d JANUARY, 1858.

Same Subject continued — Reply to Objections.

WE suggested, in a recent article, that the principal opponents of the educational franchise would probably arise from among that busy class of politicians which, for want of a better name, we designated “local celebrities.” It seems that our notion is likely to be verified. Mr. Duncan M'Laren, an energetic citizen, once a prominently useful man in the town council of Edinburgh, and recently an unsuccessful candidate for the representation of that city in Parliament, has taken the field on the side of ignorance. In a letter

addressed to an Edinburgh newspaper, he argues vehemently against the Scottish Universities (and particularly against the University of Edinburgh) having the right conferred upon them of sending members to the House of Commons. "It is," says Mr. M'Laren, "an extraordinary circumstance that any resemblance should be imagined to exist, for the purposes of Parliamentary representation, betwixt Edinburgh University and the Universities of the sister kingdoms. Parliament has based all constituencies mainly on two foundations—property or residence. The English and Irish Universities have a large proportion of both; Edinburgh University has neither." Referring to the more general question of the proposed educational franchise, Mr. M'Laren merely intimates his decided objection to the separation of the constituencies into the "learned and unlearned classes." We also hold this to be most objectionable; but we do not consider that it is a question necessarily involved in the bestowal of the franchise in virtue of educational qualifications.

The argument based upon the alleged non-possession of property is untenable. It is, moreover, a misstatement. The Scottish Universities, though very poor, as compared with Oxford and Cambridge, are by no means destitute of property. They possess lands, buildings, libraries, and museums. Were the Scottish Universities fused into one great body, as a "University of Scotland," in accordance with the suggestion of Lord Elcho, and in harmony with the views of other influential politicians and distinguished *literati* of the North, the claim to Parliamentary representation, on the ground of property, would be irresistible. We allude, for the present, only incidentally to this amalgamation scheme, as we propose to consider it fully upon a future occasion, in conjunction with Lord Elcho's letter embodying the proposal, addressed to a meeting of Scottish University Reformers held at Edinburgh on Wednesday last, under the presidency of Lord Campbell. Lord Elcho's letter has not yet appeared in print.* As to the necessity of excluding the Scottish Universities from representation on account of their poverty, the idea is ridiculous, apart altogether from its being based upon an inaccurate statement of their real position. The propriety of giving one or two members to the University of London has been admitted by statesmen of all parties; and yet the University of London has neither lands, buildings, library, nor museum. Its graduates are about to be incorporated as members of their University,

* This letter appeared in the newspapers, and is reprinted as *Note First* in the Appendix. The proposed article, however, was not written, in consequence of the shape which Scottish University Reform began about this time to assume.

and it is from this circumstance that its claim is perhaps stronger than that of the Scottish Universities. On the ground of property, it could not urge the shadow of a plea; for property it has none.

Mr. M'Laren mistakes the theory of Parliamentary representation under the British Constitution, and strangely errs regarding the history of University representation. He says:—

“It is obviously a mistaken view of the facts of the case to suppose that the obligation imposed—for originally it was considered a burden, not a privilege—on Oxford and Cambridge to return members to Parliament, was merely with the view of representing learning in the House of Commons. The obligation was, no doubt, imposed on the resident population of these Universities in the same manner, and for the same reasons, as similar obligations were imposed on other communities having an equal population of unlearned men, by constituting them boroughs, and requiring them to send representatives to Parliament to assist in imposing taxes in such way as might be considered fair to all classes, whether learned or unlearned.”

The origin of Parliament, and the origin of the privileges of particular places as member-sending boroughs, is a matter of great interest and curiosity; but when, at the present time, we refer to contemplated Parliamentary reforms as being or as not being constitutional, we are not supposed to go further back than Lord John Russell's Reform Act. Since the passing of that measure, and, indeed, from a much earlier period, the members sent to the House of Commons have been regarded in theory, and have, to a great extent, been in reality, not the mere delegates of the persons who returned them, but the representative men of the entire communities—electors and non-electors—resident in the places for which they were chosen; and they have also been national representatives. Each elector is held to possess the franchise as a sacred public trust. His vote is not his own. He cannot sell it without outraging public decency, and rendering himself amenable to the criminal law of the land. The property qualification, in virtue of which he votes, is a mere artificial test of his fitness to be a trustee. To a certain extent, it is an available test; but in some directions it has been found to be mischievously exclusive of trustworthy men. This is the principal defect in our Parliamentary system which Parliament has now to remedy; and it is a defect which never could be reformed were what seems to be Mr. M'Laren's principle adopted—to the effect, that property is the only test of a man's trustworthiness to vote. Practically, the property test is often a fallacy: it is so arranged as to admit those who have neither social position nor property, and to exclude those who possess both. Then, as regards the members sent

by the Universities of Oxford, Cambridge, and Dublin, they must be regarded, not as the representatives of University property, but of University learning, and of the education and learning of the entire nation. This is evident by a reference to the stamp of men whom Universities have, for the most part, sent to Parliament—not mere “local celebrities,” but men of mark in the senate. Historically, Mr. M'Laren's statement regarding the origin of University representation is not correct. He says that the English Universities, like the boroughs, were originally obliged to send members to Parliament to vote taxes, and “not with a view of representing learning in the House of Commons.” The very opposite of this statement is the truth. In King James's Charter to the University of Oxford, the right of sending burgesses to Parliament is expressly stated to be conferred “for the common advantage of the whole State as well of the University.” We quote the passage to which we refer, as it has an important bearing upon the matter now under discussion. It is as follows:—

“It seems, therefore, to be worth while and necessary that the said University, which abounds in a multitude of men endowed with piety, wisdom, learning, and integrity, and in which all branches of science, both divine and human, and likewise all the liberal arts, have been cultivated and professed, shall, *for the common advantage of the whole State, as well of the University aforesaid*, and of each of the halls and hostells aforesaid, *have burgesses in Parliament*, who shall make known from time to time the true state of the said University, and of each college, hall, and hostell therein, so that no statute nor general act may tend to the prejudice or injury of these institutions, or of any one of them in particular, through want of just and proper knowledge and information obtained on that subject.”

It is, then, no novelty to send University members to Parliament “for the common advantage of the State.” It is no novelty to send them there, not as the mere representatives of property, but as the representatives of “a multitude of men endowed with piety, wisdom, learning, and integrity, and in all branches of science, both human and divine, and likewise all the liberal arts.” In fact, King James bestowed Parliamentary representation upon Oxford for the identical grounds upon which we have been advocating an extension of the same privileges to the University of London and to the Universities of Scotland, and the institution of the educational franchise throughout all the constituencies.*

* Reference is here made to articles not reprinted in this pamphlet, as their bearing on the Scottish University question is not direct.

ARTICLE IV.

4th JANUARY, 1858.

Great Meeting of Scottish University Reformers at Edinburgh, under the Presidency of Lord Campbell—Necessity of Matriculation Examination for Students.

THE Scottish University Reform meeting, held last week at Edinburgh, is not in all respects so satisfactory as we could have desired. The speakers were very imperfectly impressed with the inherent deficiencies of the system which they professed a desire to improve, and were far too exuberant in their manifestations of regard for what, in the words of one of the resolutions, is somewhat vaguely designated, "the distinctive character of the Scottish Universities." From a careful perusal of the speeches, as reported *in extenso* in the Edinburgh newspapers, and, in particular, from the opening address of the noble Chairman—which was published in the *Morning Post* of Saturday, along with a summary of the entire proceedings—we have arrived at the conclusion that the principal objects of the majority were additional chairs, increased endowment of existing professorships, retiring allowances for infirm professors, and the appointment of salaried tutors as assistants to some professors. While these reforms were strongly insisted upon in the resolutions, others of an equally imperative and practicable character were only generally alluded to, or were quite ignored.

The first resolution was to the following effect: "That the Universities of Scotland, in their present condition, do not afford sufficient encouragement to the attainment of high excellence in literature and philosophy; and that it is matter of national concern that they be strengthened and improved, so as to enable them to meet the exigencies of the times, and enter successfully into competition with other great schools of learning." Here the "encouragement" referred to is evidently money—that is to say, the additional chairs and additional endowments specified in the subsequent resolutions. We are of opinion that there is another very efficient kind of stimulus, which ought to be sought in conjunction with any grant of public money to teachers. If not quite ignored in the resolutions, it is certainly neither named nor indicated in any of them. The reform to which we refer is nevertheless that which is of all others the most loudly called for. There never can be University education worthy of the name in

Scotland, until it be imperative that students, before matriculation in any faculty, be duly certified, by a trustworthy board of examiners, to possess at least a certain specific amount of knowledge of classics, mathematics, history, logic, moral philosophy, and the English language.* Looking at the present lamentable condition of affairs, we should say, that in the first instance it would be necessary to permit this modicum of knowledge to be fixed at a moderate standard. Once, however, that the principle of a preliminary test of knowledge was sanctioned, an immense point would be gained. The professors would know what kind of material they had to deal with. The extent of requirements might afterwards be gradually increased, in proportion as the schools improved, till at last evidence of a respectable minimum of information could be safely demanded from all students prior to their matriculation.

Till the Scottish professors receive their pupils, as a rule, in a much better state of mental discipline, and with an ampler stock of knowledge, they must either fall back upon elementary school work, or, in adapting their instruction to the more competent, neglect the others. At present, for instance, the Professors of Greek, Latin, and Mathematics are obliged to take students varying infinitely in their acquirements or their ignorance—some, who have been thoroughly drilled for six or seven years at the Academy and High School of Edinburgh, or at other institutions of the same high grade—others, a more numerous class, who hardly know the Greek alphabet, can scarcely construe Cæsar, and are unable to demonstrate a single proposition of Euclid. The remedy for this state of affairs by the institution of a matriculation examination is, therefore, the fundamental reform which is required in the Scottish University system. It would be worse than a waste of public money to endow new chairs unless the doors of the Universities are closed against all who are incompetent to benefit by that higher grade of instruction for which alone Universities are required or intended.

The matriculation ordeal would bring with it other benefits beyond the elevation of university study, and the emancipation of the professor from the incubus created by knowing his class to be a heterogeneous admixture of the prepared and unprepared—the disciplined and the undisciplined. The matriculation requirements would, by a direct or indirect pressure, tend to raise and progressively elevate the educational standard of such of the schools in Scotland as are

* Medical students in particular, too often commence their university studies deplorably deficient in elementary knowledge.

now below the mark. The number of thoroughly efficient schools would soon be greatly augmented, in accordance with the commercial maxim, that where there is a demand there also will be found a supply to meet it. If lads find that they cannot at their nearest village school obtain the necessary amount of preliminary knowledge, they will probably seek it in the grammar-school of a neighbouring burgh. In this necessity there could be no hardship. Indeed it is a far greater, because it is a more general, hardship, to sanction the utterly unprepared to take their places on the benches of a University class-room. Time and money will both, in the end, be saved by insisting upon efficient school work before university study is commenced.

The appointment of salaried tutors or assistant-professors is approved of in one of the resolutions. The tutorship plan has been long and zealously advocated by Professor Blackie, as the best remedy for the evils which arise from the imperfect and unequal state of preparation in which students go to the Scottish Universities. Practically, the object of the promoters of the tutorship plan is the erection of schools within the Universities as gymnasia for bringing up *alumni* deficient in preliminary training, to the adequate standard of fitness to receive professorial instruction. This plan, while it would make the duties of the Professor more agreeable to himself and more useful to his class than is at present possible, is objectionable. By removing from the schools much of their proper work, it would depress the standard of education in Scotland. By drawing to the Universities partially educated, and we may say uneducated, youths, from remote homes and village schools, it would check the development of good grammar-schools, and it would withdraw from all the schoolmasters of Scotland the most wholesome stimulus which they can possess — the stimulus of feeling that they may be called upon to prepare candidates for University matriculation, and that in doing this there is work which can neither be evaded nor done slightly with safety to themselves.

If Lord Campbell's picture of the Scottish Universities be a true one, we have spoken of the staple of their scholarship in too disparaging a manner. He said, speaking of his own career, that "he was an *alumnus* of a Scottish University, and to the training which he received there he chiefly ascribed whatever success he had met with in life." Speaking in the same strain, he referred, as proofs of the excellencies of the Scottish Universities, to Lord Lansdowne, Lord Brougham, Lord Palmerston, and Lord John Russell, as eminent statesmen who had, during the last fifty years, been educated within

their walls, to a greater or less extent. Granting that all these great men could be fairly claimed by the Scottish Universities, which is not the case, it would not disprove the notorious fact that, as regards scholarship, Scotland is immeasurably below England. We venture to say, that every one of the illustrious persons enumerated by Lord Campbell (himself included) have owed their distinction to other causes than those which he suggested. To argue for or against a system, by an appeal to exceptional cases, is to adopt a method by which any absurdity might be defended. We might adduce the names of many eminent judges and statesmen of the last half century who never had any sort of University training, and then declare that we had proved University training to be useless. Lord St. Leonards, for example, ascended from the ranks of the people by the native energy of his character. He never was at a university or grammar-school, and yet he has written standard works on the highest departments of English law, and worthily filled the offices of Chancellor of Ireland and of Lord High Chancellor of England. Nevertheless, inasmuch as such cases are exceptional, it would be irrational to argue from them against universities and grammar-schools.

Of all the resolutions adopted at the meeting, decidedly the best was that proposed by Principal Tulloch, seconded by Dr. Guthrie, to the effect, "That graduates of each University should have some share in its government; and that they should by this, and by other means, be led to retain a permanent interest in its prosperity and advancement." Under such a system there would arise an appreciation of degrees in arts, which does not now exist in Scotland; and with proper management of the examinations, an immense impulse might thereby be given to the cause of sound learning.

By the institution of a matriculation examination, and the incorporation of the graduates as University members with a share in the government, the Scottish Universities would become much more useful to the nation than they now are, and more deserving of endowments from the public purse. Unless these reforms are introduced, the bestowal of money by the State would not be advantageous. To erect new chairs without effecting these two reforms would be little better than an attempt to rear a gorgeous structure upon a rotten basement.

ARTICLE V.

8th JANUARY, 1858.

*Same Subject continued—Lord Elcho's Suggestion in relation to a
"University of Scotland."*

IN leniently reviewing (on the 4th instant) the proceedings of the recent Edinburgh meeting of Scottish University Reformers, we said that they were not of so satisfactory a character as we could have desired. While we approved generally of the resolutions, we noticed their omission of all reference to the necessity of instituting a matriculation examination as a flagrant defect. We regarded it as virtually ignoring the reform which was, of all others, the most loudly called for. We said:—

“At present the Professors of Greek, Latin, and Mathematics are obliged to take students, varying infinitely in their acquirements or their ignorance,—some who have been thoroughly drilled for six or seven years at the Academy and High School of Edinburgh, or at other institutions of the same high grade, to a more numerous class, and others who hardly know the Greek alphabet, cannot construe Cæsar, and are unable to demonstrate a single proposition of Euclid. The remedy for this state of affairs by the institution of a matriculation examination is, therefore, the fundamental reform which is required in the Scottish University system. It would be worse than a waste of public money to endow new chairs, unless the doors of the Universities are closed against all who are incompetent to benefit by that higher grade of instruction for which alone Universities are required or intended.”

The idea of a compulsory preliminary examination is extremely unpopular among a large class of Scottish University Reformers. It is especially disliked by most of the professors, who apprehend that dread of the matriculation ordeal would act as a repulsive force from the Universities, and so diminish inconveniently incomes already too small. We do not believe that this repulsion would be the consequence of the course we advocate; on the contrary, we are firmly of opinion that the decrease in the numbers of students at some of the Scottish Universities, which is known to have been going on during the last twenty years, would, ere long, be thereby checked. Two circumstances, both very discreditable to the parties implicated, may be noticed as indicative of the strong dislike in certain quarters to the fundamental reform now under consideration—that reform, we repeat, which is most palpably and urgently demanded, and that also

which may be most easily obtained. The first circumstance to which we refer is the omission from all the newspaper reports of the Edinburgh meeting of any notice of a very important letter advocating this reform, which was addressed (evidently as a public document) by Lord Elcho, M.P., to the noble Chairman, in reply to the official circular enclosing a printed copy of the resolutions prepared for the formalities of being "moved, seconded, and carried." The other circumstance is the putting forth, in reply to our article of the 4th instant, the assertion, that preliminary examinations do exist, and have for some time existed, both in Edinburgh and Aberdeen!

Lord Elcho's letter was well known to exist more than a week ago. We incidentally alluded to it on the 2d, in an article on the justice of giving Parliamentary representation to the Scottish Universities. It did not, however, appear in print till five days after the meeting had taken place—that is, till the 4th instant. It was published in the *Scotsman* on that day, without any explanation of the cause of its having been kept back, or of its having at last been made public. On the 6th the letter appeared *in extenso* in our columns. In it, along with other valuable suggestions, Lord Elcho advocated the institution of a matriculation examination, stating at the same time, as confidently as we did, and as we now do again, that no preliminary test of elementary knowledge exists in the Scottish Universities at matriculation. His lordship says:—

"Whilst we endeavour to raise the standard of education by enhancing the importance of the degree, there is one point to which we ought, I think, to look, and to which the resolutions to be proposed at the meeting do not refer, viz. the establishment of such a matriculation standard examination as will prevent the admission of any students who have not an elementary knowledge of the common subjects taught at the University. This is an evil at present loudly complained of."

Knowing the want of a matriculation examination to be both the monster evil, and also "the loudly-complained-of evil" in the Scottish University system, we expressed considerable want of confidence in a reformatory scheme which did not attempt to grapple with it, and which was, in fact, calculated to perpetuate it. Feeling, no doubt, that the arguments which we adduced were irresistible, the *Witness*, on behalf of the resolutionists, gives forth a misstatement of facts with a flippancy and pseudo-nationality which is too characteristic of northern journalism when in fancied antagonism with influential Englishmen.

The *Witness*, a leading Edinburgh newspaper, on the 6th instant,

commenced commenting upon the criticisms of the London press upon the recent proceedings of Scottish University Reformers with the following paragraph:—

“The manner in which the meeting recently held in this city on the subject of University Reform has been commented on by certain of our leading contemporaries in the South is not very encouraging. The telegraph, we often hear, has annihilated time and space; but it would appear that difficulties in the transmission of knowledge still remain to be surmounted. The man would certainly deserve a high premium who invented an electric or magnetic telegraph capable of conveying, say, one poor fact concerning Scotland, into the brain of a Cockney. The gentlemen will insist in writing about us, and yet they will on no account condescend to inform themselves of the simplest circumstances of our situation. A leader of public opinion, for instance, writing in the *Morning Post* of Monday, fills a long article with argument and exhortation, to the effect that Scottish Universities ought to institute at least initial entrance examinations. Our readers, we suppose, know, that *in Aberdeen and in Edinburgh such examinations exist, and have for some time existed*. No money ought to be given to us, according to this judicious person, until we have matriculation examinations. The words are spoken, and will have their effect. Their writer did not think it worth his while to inform himself whether we had examinations or not. And we, poor Scotch, must suffer for his ignorance: *quicquid delirant reges, plectuntur Achivi*.”

In all friendship and earnestness we would beseech our Scottish friends to talk less about the supposed ignorance of Cockneys, and honestly set themselves to enlighten it. Let them tell us the whole truth, and nothing but the truth. To say that it was a piece of Cockney ignorance on our part, to state that there was no matriculation test in the Scottish Universities, cannot in any degree promote the present Scottish movement for money. It will only prove that we have made an unpleasant revelation, and drawn attention to a defect which our friends not only are afraid to remove, but are most anxious to conceal. The fact is exactly as we stated it. Of this it is not necessary to adduce formal proof. Available evidence is within the reach of everybody. Any person may, on payment of a small fee, matriculate in any Scottish University. There is not even the shadowy form of an examination. While we were fully prepared to hear the institution of a preliminary examination greatly objected to by certain parties, we were not prepared for the unfounded assertion that such an ordeal had already been established in Edinburgh and Aberdeen.*

* The *Witness* is correct to the letter, in so far as *very easy* matriculation examinations exist in some Universities, as a preliminary to admission to the regular course in Arts. No matriculation examination is required of medical students.

It would, under certain conditions, we willingly admit, be most proper to increase the stipends of some of the Scottish professors, and to provide retiring allowances for such of them as might grow aged and infirm in the service of their country. Farther, most gladly should we hail the foundation of new chairs, if it can be shown that they are really required. We maintain, however, that these being measures requiring grants of public money, they ought to be coupled with, or preceded by, the institution of an intransigent examination, not merely as a measure of University Reform, but as a means of stimulating to, and maintaining in, healthy action parochial schools, grammar-schools, and all other educational establishments. Till a knowledge of school work is exacted on entering the Universities, schools will not, as a rule, be able to give a full measure of that knowledge. The extent of the beneficial operation of the matriculation examination would not be confined to those who entered the Universities with a view of following there an extended course of study. Many would matriculate at the close of a school career, in evidence of their having had, up to a certain known point, a liberal education. This is not a mere hypothesis. English schools send numerous pupils to pass the matriculation examination at the London University, simply to obtain the warranty which that ordeal furnishes of the possession of a certain respectable and specified amount of elementary knowledge. Matriculation in the London University is a valuable certificate in seeking employment. We wish to see the same wholesome system in operation in Scotland. The greater strictness which has of late years been introduced into the competitive examinations for the "bursaries" at Aberdeen has raised the character of many of the preparatory schools in and near that city. If a respectable minimum test of elementary knowledge were exacted from all candidates for admission to study at the Scottish Universities, not only would the cause of university education be promoted, but a great impulse would be given to all the schools in Scotland. Learning would no longer be at a discount.

The *Witness*, in concluding the article from which we have already quoted, thus addresses Scottish University Reformers:—"We wish the evident fact, that they will neither understand nor assist us in the South, would sting the pride and energy of Scotland to work out University Reform at home. Let us demonstrate the possibility of motion by walking." This is excellent advice, though the reason assigned for giving it implies an error. If the Scottish professors would show any earnestness in endeavouring to accomplish such educational reforms as are loudly called for, and quite within easy reach,

neither in Parliament nor elsewhere, probably, would there be much, if any, opposition to a grant of public money as a supplement to existing endowments, which are undoubtedly scanty. Valuable legacies might also be expected in due time from grateful *alumni*, for the establishment and maintenance of additional chairs.

ARTICLE VI.

30th JANUARY, 1858.

Second Great Meeting of Scottish University Reformers, under the Presidency of Sir John M'Neill, G.C.B., to advocate the Incorporation and Privileges of the Graduates—Importance of this Object with a view to the Elevation of the Standard of Education in the Seminaries of Scotland—Injurious Effects of the present Inadequate Incomes of many of the Professors—The Scottish Universities have a Claim in Justice on the National Purse.

THIS day an important meeting of Scottish graduates is to be held at Edinburgh, under the presidency of Sir John M'Neill, G.C.B. It is generally understood, that the two more immediate objects which the proposed demonstration is intended to promote are the Incorporation of the Graduates as members of their respective Universities, and of University Parliamentary Constituencies. The benefits which would result to the cause of education from the graduates having a share in the government of the institutions whence they derive their degrees are obvious. A wholesome *esprit de corps* would be generated and fostered among educated persons engaged in various pursuits. The apathy, self-complacency, and ignorance of the Scottish public in relation to the Universities of Scotland, would soon be transformed, under the influence of such a body, into an enlightened reformatory zeal. The value of degrees in Arts would be so greatly enhanced by the attachment of substantial privileges to them, that it would soon become as rare an event in Scotland, as it now is in England, for a student to leave college without graduating. The constituting of degrees as qualifications to vote at the election of University Members of Parliament, would of itself form a considerable stimulus to graduation; and everything which has such a tendency is good and whole-

some. To enhance the value of Scottish University Degrees, is one of the chief available means through which a higher standard of education can be introduced into Scotland. It is, however, only one of two chief instruments which ought to be employed to accomplish this most desirable object.

If candidates from Scotland for Indian and other public appointments are not to continue to fail very much more frequently at the competitive examinations than youths educated in England and Ireland,* an efficient matriculation examination must be forthwith established in all the Scottish Universities. We question whether there could be adopted any other measure by which the low scholarship of the Scottish schools could so speedily be brought up to a level with those of England. It must always be steadily borne in mind, that any scheme of university improvement which does not directly tend to the elevation of the schools is objectionable, and ought to be resisted. We are well aware, that the prospect of an efficient matriculation examination is looked upon with much alarm in certain quarters. This is not at all surprising, as it would effectually check the making of large incomes by "poaching on the schools," as Professor Blackie once described the present mischievous and degrading system. The Greek chair at Edinburgh, now occupied by Professor Blackie, depends greatly in its emoluments upon school-poaching. If, as he wishes, tutors be endowed for the express duty of grinding up the untaught on their entering college, as a substitute for the legitimate remedy for the existing evil, (viz. the obliging the schools to do their own proper work through the stimulus of the application of the matriculation test of knowledge,) school-poaching and a general depreciation of schools will be perpetuated. A few days ago Professor Blackie, to round a rhodomontade rather than for the purpose of conveying information, announced from a Glasgow platform that his salary as the incumbent of the chair of Greek in the University of Edinburgh was "only thirty pounds!" On turning to the Report of the Royal Commissioners, printed in 1830, we find that Professor Dunbar returned his income from fixed salary as 87*l.*, and from that and fees collectively as 1259*l.* Town-council delinquencies or other causes have, possibly, now reduced the stipend to 30*l.*, and the fees have fallen in consequence of the attractions of the present incumbent being less than those of his predecessor. Professor Dunbar was a plodding man, who taught Greek. He took in fees, at an average, 950*l.* or more, per annum. Professor Blackie is, perhaps,

* On this point, *vide* a remonstrative letter addressed to the *Morning Post*, and reprinted in Appendix, Note Second.

not a plodding man; and he is said to like better to talk about the Greeks, than to teach the elements of Greek. He probably, for these reasons, poaches less upon the schools; but, be that as it may, his fees do not, upon an average, exceed 650*l.* or 700*l.* a-year. Still, with 600*l.* or 700*l.* a-year from his chair, we do not think that it was right in Professor Blackie to make the unexplained announcement that he had “only a salary of 30*l.* a-year, as Professor of Greek in the Scottish Metropolitan University.” We speak from our own knowledge when we say that this announcement has misled and perplexed many. It has also led some to believe that the emoluments in the smaller Universities are better than in Edinburgh. This is not the case. Their endowments are a little better, but the actual value of the appointments is much less. For example, the Professor of Greek in St. Andrews has a stipend of 219*l.*, but he could not by any possibility make up his total income by fees to 500*l.* It is probably not more than 400*l.* The chair at Edinburgh, which can be made to yield 1200*l.* a-year, is certainly a greater prize than the chair at St. Andrews, which cannot produce more than half that amount. While we think the amount of fixed salary of most—we may say all—is ridiculously small, and consequently deserving of augmentation, our sympathies are most awakened by the position of the principals and professors in the smaller Universities. Their incomes are not only insufficient to enable them to maintain that social position to which they are entitled as gentlemen and as scholars, and which for the interests of education and learning they ought to be able to support, but they are even quite inadequate for the maintenance of a family in parsimonious and pinched gentility. The incomes do not and cannot support the incumbents. The choice of the patrons is thus necessarily limited to individuals who have other means of support, such as a patrimony, a rich wife, or, it may be, some other paid office. In Edinburgh a medical or legal chair may be combined with a good practice. In Edinburgh lucrative law appointments have often been, and are now, held by professors. It would be much better if the professors were well paid as professors, so that the emoluments for the proper work of each chair could always command proper men to do it. At present, through inadequate emoluments, the chances certainly are against the right professors being in a large proportion of the Scottish University chairs.

While, therefore, we regard the institution of an efficient matriculation examination as the *sine quâ non* of Scottish University Reform, and the incorporation of the graduates as a measure of almost equal importance, we are not unimpressed with the justice of the pecuniary claims of the existing professors, and with the reasonableness of founding re-

tiring allowances for the infirm, as well as some additional chairs. We are not insensible to the fairness, under certain conditions, of the cry for money. Nay, we should not object to the cry being much louder and stronger than it really is, provided it were coupled with an honest and earnest determination on the part of the professors, graduates, and public of Scotland, to render their Universities more useful than they now are as educational institutions, and to prevent them from competing with, and thereby lowering, the schools. We should regard the institution of such tutorships as Professor Blackie advocates as a retrograde educational movement, and a most mischievous application of public money. Judiciously distributed, 20,000*l.* per annum would place the Scottish Universities in a state of thorough efficiency; but if money is to be frittered away on the tutorships and other experiments, we do not know how much more might be required. Besides, the first duty of Parliament is to produce a wholesome emulation among the schools, and to prevent their being plundered of their legitimate work by the Universities.

It must always be remembered, that the Scottish Universities have a claim upon the national purse of a special character, in addition to that which they have in common with other educational institutions, which cannot be dispensed with, and which ought to be rendered as efficient as possible. In the Treaty of Union between the two kingdoms a stipulation was made that the Scottish Universities should be kept up for ever. This promise has not been faithfully observed. The University and King's College of Aberdeen, and the University of St. Andrews, have been actually impoverished by the Legislature of the United Kingdom sanctioning the withdrawal, under the operation of the Teind Court, of the "teind," or tithe property, which formed their early endowments. The augmentation of the stipends of the parochial clergy from the teind property was not in itself objectionable; but the stripping of the ancient Universities for that purpose, without returning an equivalent, was robbery. Somewhat tardily the propriety of compensation was admitted, and, in some degree, restitution was made. The amount of compensation was, however, declared by the Royal Commission to be wholly inadequate. While the incomes of the Scottish judges and sheriffs have, in recent times, been greatly increased, the incomes of the Scottish professors have been diminished. The cause of learning has suffered because the holders of learned offices have not had the means of maintaining a proper *status* in society.

ARTICLE VII.

2d FEBRUARY, 1858.

*Necessity for a Grant of Public Money, and Objects to which it ought to be applied—Treatment of the National Universities of Scotland, contrasted with that of Maynooth and the Queen's Colleges in Ireland.**

It has appeared to many quite unaccountable, that with the Report of the Royal Commission on the Scottish Universities on the table of the House of Commons for the last twenty-eight years—a Report embodying the recommendations of men so eminent and possessed of so much political and social weight—almost nothing should as yet have been done in accordance therewith. This neglect may, however, be explained, to a certain extent, by the magnitude of the political questions and social events which have during that period successively absorbed the attention of public men and of the nation. First came the Reform Act, its exciting advent, and its many legislative consequences; then the Railway movement, the Irish-Famine, and the Repeal of the Corn Laws, with its disturbing effects upon party alliances. Public feeling in Scotland, moreover, though deep and strong upon the subject among well-informed and thoughtful men, has been so sluggishly manifested by the general community, that Scottish Members of Parliament have not felt that it was one to which they were specially pressed to give their attention. This culpable apathy is now at an end. The inefficient state of the Scottish Universities, now made manifest to the world, is felt acutely by Scotchmen. They are, therefore, naturally looking into the causes of this unfortunate condition, with a determination to use all possible means to accomplish their removal. In this laudable enterprise they have the sympathy and support of all friends of national education and social progress.

The incomes attached to professorships, for which the services of the ablest men in the different departments of learning and science should be obtained, are ridiculously inadequate—disgracefully inadequate—as compared with those of prosperous professional men, for whose duties no very special mental qualifications are requisite. There are some of the thirteen judges of the Court of Session—of whom a few could be easily spared—who receive singly incomes larger than the aggregate incomes of the Principal and Professors of

* Note Third in Appendix, on the Queen's University and Queen's Colleges in Ireland.

the University and King's College of Aberdeen ! Though the remark has no applicability as regards the policy of the present Government,* it certainly till lately was a tolerably true saying, that "Scotland was governed *by* lawyers and *for* lawyers;" meaning, that every post expected to be filled by a lawyer was well paid, and all other posts were ill paid. The salaries of the sheriffs and sheriff-substitutes throughout Scotland have been twice raised since the Report of the University Royal Commission was printed. The average rate of salary of a sheriff is 850*l.*, and every sheriff is an advocate at the Scottish bar, who may be earning his hundreds, or, as is often the case, his thousands, in practice. The sheriff-substitutes (fifty-five in number) receive an average rate of 686*l.* Not one of them—not even the sheriff-substitute of the remotest Hebridean island—has less than 500*l.* Some county clerks of the peace, and sheriff clerks, receive as much as 2000*l.* Macers of the Court of Justiciary—the aristocracy of Scottish beadledom—have salaries of 400*l.* a-year, which is twenty five per cent more than the income of several professors, gentlemen of undoubted scholarship and science. It is not exclusively, though it is chiefly, the legal officers in Scotland whose ample incomes contrast so strikingly with the wretched remuneration of most of the professors. The Post-office surveyors, for example, with duties requiring no qualifications beyond those of a lawyer's clerk, receive 700*l.* a-year and upwards, and have all their official expenses allowed in addition. This state of things has grown up since the date of the Report of the Royal Commission, so that the relative position of the professors is very much worse now than it was then. They have, in fact, been rapidly and cruelly depressed in the social scale, whilst their neighbours were being exalted. All this, too, has been going on simultaneously with the vote of 800*l.* a-year to each of the Principals of the Queen's Colleges in Ireland, and of 900*l.* a-year to the President of Maynooth, who, being a bachelor, has only personal expenses. Under such circumstances, as we formerly remarked, Parliament need not be surprised if the coming cry for money from the Scottish Universities is loud and strong. They have, in fact, many grounds for making a good pull on the House of Commons. There are the Report of the Royal Commission, the uncompensated teind appropriation, the recently increased salaries of the legal and other officials in Scotland, and the annual grant of nearly 60,000*l.* to Maynooth and the Irish Queen's Colleges in Ireland; in addition to the heavy expenses incurred in the buildings, museums, and other initiatory expenses of these institutions.

* This article was written when the Palmerston Administration was in power.

In respect of the amount actually required by the Scottish Universities some diversity of opinion naturally prevails. It has been said that the Scottish Universities ought to receive at least as much as the Irish Queen's Colleges. We cannot concur in this view, unless it can be shown that so large an amount is required. Our impression is, that with 20,000*l.* a-year from the Consolidated Fund, the thorough efficiency of the Scottish Universities might be secured. In Scotland, it must be remembered that considerable endowments already exist. The Queen's Colleges had, on the other hand, to be started, and have now to be supported entirely by Government, except in so far as the pupils' fees can be obtained. In many of the Scottish chairs the fees are very valuable; in hardly any case can this be said of the Irish Queen's Colleges. At present we are decidedly of opinion, that a grant of 20,000*l.* a-year would suffice for the Scottish Universities. Along with such a grant, however, it would be advisable to vote something to improve a certain number of the burgh schools.

The two clamant necessities which ought first to be provided for are—decent incomes for living professors, and retiring allowances for half-dead ones.

The former of these objects would of itself require from 9500*l.* to 10,000*l.* were the incomes of the principals raised to 800*l.*, and the incomes of professors to 600*l.* Much less would suffice if the Aberdeen Colleges were to be combined in one. We are not, however, disposed to abate our estimate by any such contingent subtraction. Part of this saving might go to support a Botanic Garden at Aberdeen, the want of which is seriously felt, especially by the Medical school. We may assume that an entire fusion of the Aberdeen institutions into one University is, on financial and educational grounds, a necessary part of any general proposal for Scottish University Reform. Upon the whole we think that it is fair, and at the same time quite sufficient, to set down 10,000*l.* as the amount required for the augmentation of incomes.

It is much more difficult to estimate the sum required for retiring allowances. We would say, however, that they ought to be liberal, otherwise incumbents dependent for income upon their professorships will cling to them to the very last, as has hitherto too often been the case. There are at present, and probably there are generally, about twelve professors who have, or ought to have, their classes taught by substitutes, owing to advanced age or bad health. At 300*l.* to each, this would require 3600*l.*; or say at the utmost, 4000*l.* a-year.

The other objects for which money is required are teaching appliances (such as museums and apparatus), fellowships, and additional professorships. We perceive from the Report of the Com-

missioners, that for the first of these three objects there was an urgent want of funds. We believe that this want still exists. A certain number of fellowships, say twenty, at 100*l.* a-year, tenable for three or four years, and awarded to those who graduated in Arts and Medicine with the highest honours, would prove of incalculable benefit, as wholesome stimulants to study, and rewards of industry and talent. Additional professorships are said to be required. There is no Professor of English Literature in any of the Scottish Universities, nor is there any instruction given in Sanscrit or the modern languages of British India. The languages of the Continent are equally without teachers. Natural History, embracing many distinct sciences, such as zoology, meteorology, geology, and mineralogy, are taught, or supposed to be taught, by a single professor. While we are by no means in favour of the foundation of many new chairs, and consider the creation of any as an object secondary in importance to all the others which we have enumerated, we at once admit that the demand for a certain number of new professorships is not an unreasonable one. Supposing all the other objects provided for, it would not be too much to give for the salaries of additional chairs, in addition to fees, a sum of 2000*l.*

Our rough estimate, therefore, may be thus condensed:—

Augmentations	£10,000
Retiring allowances	4,000
Teaching appliances	2,000
Fellowships	2,000
Additional chairs	2,000
	<hr/>
	£20,000

Supposing that 20,000*l.* were to be granted, some Scottish University Reformers would wish to appropriate a considerable portion of it to the payment of a special order of tutors to bring up untaught and ignorant intrants. To such a proposal there is the insuperable objection, that it would perpetuate the low scholarship of the schools. As opposed to any such scheme, we will continue to advocate the institution of a matriculation examination. We would allow no student to be enrolled at a University till he had received from appointed examiners his *testimonium maturitatis*. By this arrangement the necessity for tutoring ignorant intrants would be removed, and the schools would be kept up to a due standard of competence in school work. To enable this to be the better carried out, we should be glad to see twenty first-class schools throughout Scotland, aided by public money to such an extent as would make the masterships

worth, at least, say 350*l.* per annum. This would be infinitely better than frittering away money upon Professor Blackie's tutorship hobby. It would serve the cause of university education much better; it would form an excellent nursery of professors, and it would elevate the educational-*status* of all schools, as the masterships would be prizes for which teachers generally would endeavour to qualify themselves. A grant of 3000*l.* in aid of twenty schools would probably accomplish this radical educational reform in Scotland. According to our calculations, therefore, for the moderate sum of 23,000*l.* a-year—the annual cost of a single sloop of war—the Universities and Burgh Schools of Scotland might be placed upon a footing of complete efficiency, while at the same time the parochial and private educational institutions likewise would be inspired with a new vitality. If the establishment of the matriculation test be put forward as a ground for claiming compensation on the part of the school-poaching Professors of Latin, Greek, and Mathematics, we would rather allow compensation to be made at the sacrifice of the proposed additional chairs, than have, under any pretext whatever, Professor Blackie's tutorship system.

ARTICLE VIII.

23d FEBRUARY, 1858.

University Representation in Parliament—Nature of the Constituency, and Arrangements for Polling.

AT the recent meeting of Scottish graduates the subject of Parliamentary Representation was talked about, and resolutions were unanimously adopted, to the effect that “the Universities of Scotland labour under serious disadvantages from the want of Parliamentary Representation; that due representation ought to be secured to them in any future Reform Bill; and that the franchise should be conferred on graduates, they being presently so numerous as to form an ample constituency for the election of representatives.” No plan, however, was brought forward explaining how the resolutionists wished their views to be carried out, nor was any committee formed to prepare a plan for consideration at a future meeting. In reality, therefore, so far as the question of representation is concerned, very little was done. Neither the Government nor Parliament can be

expected to attempt to give effect to mere abstract propositions, when the parties immediately interested have not condescended to explain the manner in which they conceive that these propositions ought to be practically embodied.

How different has been the conduct of the graduates of the University of London in relation to Parliamentary Representation! To the zealous and able manner in which the committee of their body has urged claims to this and other privileges upon the attention of statesmen, the University of London owes its present position. It is not now claiming Parliamentary Representation merely upon general principles, but also in redemption of promises fully and frequently endorsed by eminent men of all parties. Lord John Russell, Lord Derby, Mr. Disraeli, Sir James Graham, Lord Aberdeen, and the late Mr. Hume, have all publicly expressed their approval of the members of the University of London being created a constituency. They never would have said this had not the graduates skilfully enlightened them as to the propriety and justice of such a step, and pointed out likewise *the precise manner in which it could be accomplished*. Had the London graduates contented themselves with making speeches, and passing abstract resolutions, they would have been quite as far from the mark of their ambition as the Scottish graduates now are. In place of resolutely putting their shoulders to the wheel, our northern friends are meditatively listening to the fervid bawlings of Professor Blackie, and the more matter-of-fact speeches of calmer expositors of their wishes. They speak and argue thus:—"If the modern University of London is to return one or two members to the House of Commons, it would be injustice too barefaced to be dreamed of to deny the same amount of representative privilege to the five ancient Universities of Scotland." As a general proposition this is fair and forcible; but, unfortunately, it is open to cavil, as it does not bring out an important difference about to be established between the *status* of London and Scottish graduates. The former are on the eve of being incorporated as members of their University, with a large share in its government. The draft of the new charter embodying this improved constitution is approved by all parties. It has the support of the Ministry, and only requires the sanction of Parliament, which there is no reason to suppose will be withheld.* How is it in Scotland? The graduates have not, as a body, advanced beyond declaring that "it is desirable that the graduates of our Scottish Universities shall have part in their government;" and it is very well known that the narrow-minded borough

* This Charter has been granted since the above was published.

politicians of Scotland are very jealous of such a reform, and will do their best to defeat it. The Edinburgh Town Council wishes the graduates of the Scottish metropolitan University to be nobodies in the University, and desires to continue to lord it over the professors. The shopocracy of Edinburgh, as represented by the Town Council and certain newspapers, are evidently on the *qui vive* to prevent anything likely to tend to the formation of an independent university interest. The University of London has not to fight against any such paltry jealousies. Edinburgh, however, is the only University which is absolutely overridden by persons of anti-university sympathies, and we believe that in the other Scottish Universities graduates either have or may obtain a certain amount of recognition.

The apathy, real or apparent, which prevails among the Scottish graduates as to the boon of incorporation is endangering the attainment of that object, and, consequently, of Parliamentary Representation; for, as in the case of the University of London, it is held by many influential persons that the former must be a prelude to, or condition of, the latter privilege. We are not disposed to go this length, because we fear that the maintenance of such a doctrine would be practically a denial of representation to the Scottish Universities under the immediately expected Reform Bill. We also feel that the erection of the graduates into one or more Parliamentary constituencies would in itself be a long step towards their obtaining their rightful university privileges. It would unite them for common objects, generate that wholesome *esprit de corps*—the absence of which has hitherto proved so disastrous—and be the best possible means of hastening the accomplishment of incorporation of graduates, which is undoubtedly an essentially requisite reform.

Why are the English and Irish Universities represented in Parliament? The borough politicians, led or rather misled by Mr. Duncan M'Laren of Edinburgh, and other local celebrities of similarly restricted information, have ignorantly answered, "Because they possess an immense amount of property." In this reply there is a concentration of several flagrant misstatements. The Universities have very limited possessions, and all their privileges, Parliamentary Representation among the rest, are held irrespective of property. Malden, in his admirable work on the "Origin of Universities and Academical Degrees," says:—"At Oxford and Cambridge, the universities existed before a single college was endowed, and the universities would continue to exist with all their rights and privileges unimpaired, even if the property of the colleges were confiscated, and their buildings levelled to the ground." The property

qualification is neither exacted of university electors nor of university representatives, so entirely dissociated from every idea of property is the Parliamentary representation of universities. In the charter of King James, formerly quoted by us, which conferred upon the University of Oxford the right of sending members to the House of Commons, the objects for which this privilege was bestowed are thus set forth :—“It seems, therefore, to be worth while and necessary that the said university, which abounds in a multitude of men endowed with piety, wisdom, learning, and integrity, and in which all branches of science, both divine and human, and likewise all the liberal arts, have been cultivated and professed, shall, for the advantage of the whole State, as well as of the University aforesaid, and of each of the halls and hostells aforesaid, have burgesses in Parliament,” &c. In other words, the university representatives were intended to be trustees for the interests not only of the University and Halls of Oxford, but likewise “for the advantage of the whole State.” They were to be entrusted with special and imperial duties, not by electors qualified in virtue of the possession of a certain amount of property, but by “men endowed with piety, wisdom, learning, and integrity ;” men deemed *on that account* to be trustworthy. The Reform Act did not disturb the constitutional basis of University Representation ; and, so far as we know, such an idea has never been seriously entertained. No man in his senses will argue that a rental of 50*l.* in a county, or 10*l.* in a borough, offers a better or an equally satisfactory guarantee of trustworthiness as the possession of a degree from Oxford, Cambridge, or Dublin. The property test of fitness to exercise the elective franchise is an artificial test, and has no recommendation except its being more conveniently and extensively applicable than any other. This peculiarity may not always continue. To maintain that a property qualification, as indicated by the payment of 10*l.* a-year of rental, is superior to the educational qualification vouched for by the possession of a degree, is in reality to deny the national advantage of high-class learning and science, and to declare that university education entails social degradation and political inferiority. We need not, however, pursue this argument any further into the meshes of absurdity, whither it leads. We have said more than enough to show that it is not because the Universities possess property that they send members to Parliament, but because their members, in virtue of a certain mental discipline and culture, are considered to be specially worthy of being entrusted with the protection of national interests in general, and university interests in particular.

The comparative poverty of the Scottish Universities is no reason, therefore, why they should not be allowed to send representatives to Parliament. The simple question which arises is—Is there any special inferiority or peculiarity which ought to debar the Scottish Universities from Parliamentary Representation? We have no hesitation in answering this question in the negative. The learning of the English surpasses that of the Scottish Universities; but the Scottish graduates, as a class, are a highly educated body—the most highly educated body of men in Scotland. As to social peculiarity of *status*, the advantages are decidedly in favour of the Scottish graduates. The members of the English Universities are members, and mostly clergymen of the Established Church; the graduates of the Scottish Universities are clergymen, lawyers, and medical men—Churchmen, Jews, and Dissenters of various denominations. If the Scottish graduates were to be formed at this moment into a parliamentary constituency, it would be impossible to say to what political party their representatives would belong. We might certainly with safety predict that they would not be brawling demagogues or visionary Chartists; but whether they would vote with Conservatives or Liberals of this or the other constitutional shade, it would be vain to speculate. Upon the whole, then, without wishing to insinuate the slightest objection to the sterling character and high national value of the English and Irish University constituencies, we hold that the Scottish University graduates would probably represent enlightened public opinion in a form less influenced by exclusively academical or ecclesiastical prepossessions. This *universality*, we may remark, is well known to be one of the reasons why the Parliamentary Representation of the University of London has never been opposed by any class or section of politicians.

We now return to the statement made at the commencement of these remarks, to the effect that it is not enough to show that the Scottish Universities ought to send members to the House of Commons; it is necessary also to state, categorically and clearly, of whom the constituency or constituencies ought to be composed, particularly as this essential question has originated considerable discussion as to matters of detail. Waiting official information from Scottish University Reformers as to the details of their proposal for Parliamentary Representation, we will now give an epitome of that view of the arrangements required, which we believe to be the most generally approved, and also the best which, in all the circumstances, could be adopted.

The Scottish Universities must form—ought, we think, to form—

one constituency, just as at present there are several Scottish borough constituencies, each composed of a group of distinct boroughs. To this plan there are, we admit, some objections; but as each University cannot have its own member, all objections are obviated by the necessity of the case.

This constituency ought to embrace all the professors, and, in the first instance, all the graduates in arts, divinity, law, and medicine. Afterwards, a degree in arts ought to be the qualification. This regulation would be very necessary, as at present the D.D., LL.D., and M.D. are most improperly conferred on many who have not taken a degree in arts.

The polling might be managed in several ways. The natural plan would be for each elector to poll at the seat of his own university. The Universities might, by a mutual understanding, grant *ad eundem* degrees, so as to enable graduates of sister universities to poll at the university seats most convenient to them. By special provisions in the contemplated Act of Parliament, other facilities for polling might be secured were they deemed needful.*

ARTICLE IX.

28th APRIL, 1858.

Universities' (Scotland) Bill—General View of the Bill in its bearings on the Constitution, Finances, and National Usefulness of the Universities.

THE necessity for a legislative measure to provide for the better regulation of the Universities of Scotland has been frequently urged in our columns. The leading reformatory objects which ought to be kept in view have also been fully set forth in editorial articles, and discussed in the letters of several very able and well-informed correspondents.† The stage of mere discussion has been at last surmounted. The Lord Advocate, always in a foremost position among Scottish University Reformers, has, under favourable auspices, introduced a Bill into the House of Commons, of a sound and comprehensive character, as appears by the contents of his speech of the 22d, and by the speeches of his immediate predecessor in office (Mr. Moncrieff), Lord Elcho, Mr. C. Bruce, and Mr. Buchanan. Till the text of

* At the elections to University offices in King's College, Aberdeen, the votes of the graduates are given by letters transmitted through the post.

† The Letters of "Scoto-Londinensis" and "Ulysses" attracted much attention, and usefully ventilated many mooted points.

the Bill is before us, we cannot of course decide as to the merits or demerits of all its clauses. Of its general scope, however, as explained by the learned Lord, we can speak with unreserved satisfaction. There can be no doubt as to the Bill being in all essentials the sort of measure which is required, and one which, as it well deserves, cannot fail to receive the cordial support of every friend of educational progress.

Following out the plan of the Bill which Mr. Moncrieff was preparing to bring in when his official career was cut short by the fall of the Palmerston Cabinet, the Lord Advocate has most judiciously reserved for settlement by a Commission a variety of matters of detail in relation to subjects which could not have been examined by Parliament with that amount of care which their complications require. The Bill proposes to empower the Commission to call before them principals, professors, regents, and other university office-bearers; to order the production of accounts and all other documents; to revise foundations and alter trusts; to regulate the manner in which students shall be admitted; to prescribe courses of study; to regulate the manner of teaching the qualifications for degrees in arts, divinity, law, and medicine, and to carry out, in a certain specified manner, the union of the King's College and Marischal College of Aberdeen, under the title of University of Aberdeen. The united institution is to take rank under this name among the Universities of Scotland, as from the date of erection of the University represented by King's College, in 1494.

The Bill proposes to confer upon graduates in Arts a certain share in the administration of the affairs of their respective Universities. This, by enhancing the value of the degree, will act as a wholesome stimulus to the cause of learning in Scotland. Under such a regulation a degree in Arts will soon become an object of considerable ambition among students, in place of being, as at present, very little thought of, except perhaps in the King's College of Aberdeen, where it carries with it certain administrative rights. If by a subsequent legislative measure the elective franchise were to be conferred on Scottish graduates, a still farther upward impetus would be imparted to the educational system. In the meantime, the realisation of the proposal of the present Bill in relation to graduates would work out much good, especially if coupled with the institution of a matriculation examination. Though this is not, we believe, specifically named in the Bill, it is distinctly pointed at in the clauses descriptive of the powers and duties of the Commission. We cannot see the slightest force in any of the objections which have been raised to an entrance test, provided non-matriculated students be admitted on a separate footing—that is to

say, *as non-matriculated students*—to attendance upon different classes. There can of course be no benefit derived from the exclusion of mere amateurs, or of those who from any cause might be unable or unwilling to pass the ordeal of an entrance examination. We only contend for a rule which will give to the professor a class guaranteed to possess a certain specified and ascertained amount of knowledge, so that in his teaching he may know what to be at. The best way in which we can illustrate the predicament in which a Scottish professor is placed as to the attainments of the members of his class, is by supposing them to be draughted at haphazard from all the forms of a public school, with an admixture of self-taught aspirants. This preposterous system must be put an end to. If an ambitious person of no education, ill-grounded, as is often the case, in the rudiments of the Latin and Greek languages, enter the Latin and Greek classes of the University, let not the term during which he acquires his elementary knowledge count as it now does for an university term. The work of the schools must neither be filched away from them by the present system nor by the institution of elementary tutors within the Universities. In short, the miserable competition which now goes on between the Schools and the Universities must be summarily extinguished by the institution of a matriculation examination. It is only in this way that a radical reformation can be effected in the educational system of Scotland. At present the professors and the schoolmasters are engaged in a competition downwards. This must be stopped; and they must henceforth be mutually interested in elevating the educational standard.

We apprehend that, as a matter of course, the incomes of the professors will, under the new order of things, be placed upon a footing of respectability and comfort. This would at once destroy the foundation of the argument against the matriculation test, drawn from the allegation that the poverty of the professors justifies “poaching on the schools,” as Professor Blackie has very felicitously named the practice to which we are now referring. As we showed on a former occasion (February 2), a moderate annual grant—say 20,000*l.*—would provide for all the necessities of the Scottish Universities, unless money were frittered away on the mischievous tutorship hobby of which we have lately heard so much. After going into details, we brought out a rough estimate to this effect:—

Augmentation of salaries	.	.	.	£10,000
Retiring allowances	.	.	.	4,000
Teaching appliances	.	.	.	2,000
Fellowships	.	.	.	2,000
Additional chairs	.	.	.	2,000

The “two most clamant necessities,” we said, “which ought first to be provided for, are—decent incomes for living professors, and retiring allowances for half-dead ones.” From an analysis of tolerably well-ascertained facts we arrived at the conclusion, that for these two purposes alone 14,000*l.* per annum would be required. Yet we have heard, on reliable authority, that some influential persons wish to convince the Government that an annual grant of 10,000*l.* will be sufficient for the following purposes, all of which are specially contemplated in the Lord Advocate’s Bill:—

1. Retiring allowances to aged and infirm principals and professors.
2. Additional teaching by “tutors” or “assistant-professors” in the now established classes.
3. Remuneration to the new examiners to be appointed.
4. Increasing salaries.
5. Endowing new chairs.

Referring to our facts, calculations, and arguments, in relation to the inadequacy of the incomes of principals and professors, it has been forcibly remarked by a correspondent (“Ulysses”), whose letter we published on the 6th instant:—

“In referring to the adage that Scotland is governed *by* lawyers and *for* lawyers, as meaning that every office expected to be filled by a lawyer is well paid, you ought to have excepted the case in which that office happens to be a university professorship. There, and there alone, does the privilege of his class desert him. As a judge, he would receive from 3000*l.* to 4800*l.* a-year; as a sheriff or sheriff-substitute, a sheriff-clerk, &c. &c., he might obtain from 1000*l.* to 2000*l.* a-year; but let him devote his strength and talents, and a profound scientific knowledge of the law, to the high functions of the professorial chair, and he will receive probably a tithe of what he would have got for the merest office work. It would be difficult, one would think, to show why a chair of the Roman or Civil Law, the great basis of Scottish as of European jurisprudence, should not be a position of as great dignity and emolument as any other connected with the law. How stands the case? The whole annual emoluments of that chair in the Metropolitan University of Scotland, within a gunshot of the law courts, where multitudes are receiving incomes amounting to thousands from office and practice, and where those very macers of whom you speak are strutting in the possession of 400*l.* a-year, are reported by the Royal Commissioners at 251*l.*! So different is the fate of law as a science and law as a trade!”

Nor is this Edinburgh chair of Civil Law a singular case. Many of the Scottish professors have not incomes from their chairs sufficient for the maintenance of a family in the most frugal gentility. Such posts can be held only by men who have other more or less remun-

rative occupations, who have private means, or who are content to endure severe privations for the sake of learning or science.* This, of course, circumscribes the class of persons from whom Scottish professors can be selected. The question often arises—Where can a respectable man be got to fill this or that vacant chair? To us it is a marvel how so many first-rate men have been obtained for the ill-remunerated posts of which we speak. Perhaps the constant expectation of some such measure as that now before us may have had something to do with this. Such an expectation was natural.

The Lord Advocate's Bill is based upon the recommendations of the Report of the Royal Commission, presented to Parliament as far back as 1830. The general soundness of the recommendations then made have never been called in question. The long apparent neglect of them can only be explained by extraneous circumstances. Since 1830 political questions and social events of great magnitude have successively engaged the attention of public men. The agitation connected with the Reform Act came first, and then there followed the Railway madness, the Irish Famine, and the repeal of the Corn Laws, with its disturbing effects upon party alliances. Perhaps the incessant glorification of Scottish Educational Institutions by Scotsmen, tended likewise to divert the Legislature from attempting to give effect to the reforms so clearly shown to be necessary in the Report of 1830. As the question is not in any degree one of party, and as the Lord Advocate has, in relation to his measure, the cordial support of political foes as well as of political friends, we anticipate that, though long delayed, the leading suggestions made twenty-eight years ago by the Royal Commissioners will now, at last, be effectually carried out.

ARTICLE X.

13th MAY, 1858.

Universities' (Scotland) Bill—University Courts, &c.

THE Lord Advocate's Scottish Universities' Bill being now printed, we are able to speak with precision as to the manner in which it proposes to accomplish its laudable objects—viz. the better government and discipline of the Universities; the improvement and

* *Vide* Appendix, Note Fourth :—on the incomes of Scottish Principals and Professors.

regulation of the course of study therein ; and the union of the two Universities of Aberdeen, now suffering from the weakness and rivalry caused by the condition of separate existence, and embittered, as a matter of course, by the *haine de voisinage*. With the principles and general provisions of the measure we heartily concur. They embody most of the views which we have ourselves expressed on the subject of Scottish University Reform. Of the whole of the details we cannot express unqualified approbation, although there are not many of them to which decided exception need be taken. There are, however, some points embraced in the measure very open to criticism, and of doubtful expediency. It may therefore be useful, in a friendly spirit, at this stage of the business, to state in a simple manner the changes which are proposed, and to offer a few remarks thereon. Very possibly some of the difficulties which we now experience may be removed by the explanations made in the course of the discussion which must arise in connexion with every part of the measure. We are inclined to think that this is likely to be the case, from observing the skill and careful thought with which the Bill has been drawn.

The means proposed for securing better government and discipline involve some radical changes. In each University there is to be instituted a General Council, consisting of three elements ; viz. the members of a new court, to be called the University Court, of the professors, and of all graduates in arts. The functions of this council are to be somewhat analogous to those of Convocation in the English Universities. It is to have a certain share in the election of university office-bearers. It is to be competent to consider all questions affecting the well-being of its University, and to make representations thereon to the University Court. In each University there is to be instituted a University Court. The composition of the University Courts necessarily varies somewhat in the different Universities. The Court of St. Andrews is to consist of six members, viz. the Rector, the two Principals of the two Colleges, an assessor nominated by the Chancellor, an assessor nominated by the Rector, and an assessor elected by the general council. The Court of Glasgow is to have seven members, viz. the Rector, the Principal, the Dean of Faculties, the Minister of Glasgow (not being the principal or a professor), an assessor nominated by the Chancellor, an assessor nominated by the Rector, and an assessor elected by the general council of the University. The Court of Aberdeen is to have five members, viz. the Rector, the Principal, and assessors nominated respectively by the Chancellor, Rector, and general council. The Edinburgh Court is to consist of seven

members, viz. the Rector, the Principal, two assessors nominated by the town-council of Edinburgh, and three other assessors appointed respectively by the Chancellor, Rector, and General Council. In all the University Courts it is proposed that three be a quorum. With a court consisting of only five members, as in Aberdeen, it would often be difficult to muster the number requisite for the legal transaction of business. We think that all the University Courts might be advantageously increased in number by giving to the *Senatus Academicus* the privilege of electing two members from their own body. The Principals are to be the only permanent members of the University Courts. The assessors are to continue in office for four years. No principal or professor of any University is to be eligible as assessor.*

We suspect that every *Senatus Academicus* will grumble at the proposal to wrest authority from them and bestow it on the University Courts. The University Court of each University is to have the following very large powers:—

1. To review the decisions of the *Senatus*, except in certain cases otherwise provided for.

2. To improve the internal arrangements of the University, after communication with the *Senatus*, and with the sanction of the Chancellor.

3. To regulate the teaching and other duties of the professors.

4. To fix the fees in the several classes.

5. To censure, suspend, or depose professors and inferior officers.

6. To control all the pecuniary concerns of the University.

The *status* of the University Court is still further enhanced by a transference to it of the right of presentation to all those professorships, the patronage of which is at present vested in “the *Senatus* or Faculty, or in one or more of the professors therein, or in any member or other officer thereof.”

The institution of University Courts upon some such general plan as has now been described is most proper. The question is—Are not their powers too large, and calculated to relax rather than to strengthen academical discipline? The immense powers given to the University Courts will certainly be distasteful to many of the professors, who have hitherto been virtually subject to no definite supervision, and whose usefulness and authority require that they should neither be too rigidly nor too visibly con-

* In relation to this paragraph and other passages in these articles, *vide* the Lord Advocate’s proposed alterations on the Bill as printed in the Appendix.

trolled. Care must be taken that there is no scope for vexatious meddling with the wholesome exercise of the teacher's ordinary discipline. It would be ruinous if the boys who attend the junior classes of the Scottish Universities were to have facilities of frivolously appealing from their professors to the new Courts. Unless the beadles, janitors, and other inferior officers are placed under the unlimited jurisdiction of the principal and professors, they would be very apt to become saucy and ungovernable. We cannot see the slightest ground for withdrawing these functionaries from under the control of their proper masters, the *Senatus Academicus*. The conferring upon University Courts, as constituted under the Bill, the absolute power of suspending and deposing professors, is very questionable. It would be less objectionable if the Courts were composed of a larger number of members, and if they contained more of the professorial element. Upon the whole, it would be wiser, we think, to require the concurrence of the *Senatus* and the Chancellor in sentences of deposition, prolonged suspension, or forced superannuation of a professor. It would be very proper to give the University Courts the power of censuring professors, and of suspending from the duties and emoluments of office—say for one session. Cases would arise in which rapidity in the exercise of such powers would be all-important, and quick action would not be always possible if three formal decrees had first to be obtained. Although we have more to say about the University Courts, especially with relation to their composition, and the manner in which the different elements of professors, graduates, and others are represented therein, we pass on at present to consider the clause defining the powers of the Principal and of the *Senatus*. It is to the following effect:—

“The *Senatus Academicus* of each of the said Universities, shall consist of the Principal or Principals, and the whole Professors in each University, and shall continue to possess and exercise the powers heretofore belonging to a *Senatus Academicus*, *in so far as the same are not modified or altered by or in pursuance of the provisions of this Act*; and the Principal, or Senior Principal, if more than one, shall be the ordinary president of the *Senatus Academicus*, with a deliberative and a casting vote; and the Principal shall have the constant and ordinary inspection of the Professors in the discharge of their duties, with power at all times to superintend and visit the several classes, and shall be bound to visit each class not less than twice each session.”

The words which we have italicised, referring to the modifications and alterations of the powers of the *Senatus*, embrace, as has been already noticed, formidable invasions. They may be necessary inva-

sions to render the new plan perfect ; but that is not our opinion at present. We should like to hear not only what the Lord Advocate has to say, but also what the professors have to say on this subject. Having criticised the contemplated diminution of Senatus power, we have now a word or two to say upon the inquisitorial duty of inspecting the professors, which it is intended peremptorily to enforce upon the principal. We do not believe that it would work well to make it a part of the routine duty of the principal to visit each class twice every session. It would be liable to become either a barren formality, or a disagreeable interference with the legitimate authority of the professors. At present the principals have all the powers given to them in the Bill. Indeed, by the original charters of foundation, they possess even greater powers. Nevertheless, except in exceptional circumstances and on rare occasions, the principals do not visit the different classes. The practice has lapsed into desuetude, because it was found to be inexpedient and unprofitable. If the principal is to be a teaching professor, he could not possibly perform the proposed visitation work, in addition to the various duties incident to his office. But, supposing that he had no class of his own, and had time to inspect all the other classes, we still should regard the system of a fixed minimum of compulsory visits as most objectionable. Subdivided as the branches of literature and science now are, no principal can be competent to judge of the degree of efficiency with which they are all taught. He cannot be expected to do more than investigate and report shortcomings and faults specially brought under his cognisance, or made known as the topics of public remark. The constant interference of well-meaning principals, through a sense of duty, might seriously impair the efficiency and weaken the authority of professors. There can, of course, be no objection to, but an obvious propriety and advantage in, the principal presiding upon such occasions as a public examination or a distribution of prizes.

We shall continue our review of the details of this important measure upon an early occasion. A general view of its scope, and of the mutual bearing of its parts, was given in the *Morning Post* of the 28th ultimo.

ARTICLE XI.

22nd MAY, 1858.

Universities' (Scotland) Bill—University Courts—General Councils—Powers of the Royal Commission to be appointed under the Bill—Definition of the term “Graduates.”

WE suggested in a former article that the “University Courts,” which the Lord Advocate proposes to establish in each of the Scottish Universities, ought to consist of more than from five to seven members, as otherwise it might not always be possible to command the prescribed quorum of three for the despatch of business. We said that, as the highest powers of the *Senatus Academicus* were to be transferred to the University Courts, it would be perhaps fair and advisable to augment in them the professorial element. Under all the circumstances, we thought that it would not be unreasonable to allow the *Senatus*—that is to say, the principal and professors—to return two of their own body as members of the new courts, to which the major part of their present functions are to be transferred, provided the constitution of the courts remained in other respects as described in the Bill.

It may be argued in opposition to such a proposal, that the *Senatus* element is already abundantly strong in the Lord Advocate's plan of the University Courts. Let us examine the facts of the case. The Chancellor of each of the Universities of St. Andrews, Glasgow, and Aberdeen is to be elected as at present, by the *Senatus*; and as that officer is to have the right of nominating a member of the University Court, it may be said that the *Senatus* will virtually nominate that member through their Chancellor. In the University Courts the principals are to sit; and in Glasgow the Dean of Faculties is also to be a member. The proportion of the pure *Senatus* element in the University Courts of the three elder Universities may therefore be thus stated:—In St. Andrews (where there are two principals) it is in the proportion of three in six; in Glasgow, three in seven; and in Aberdeen, two in five. In the Edinburgh University Court the professors are allotted a very small share of influence, being only represented by the Principal. The Chancellor is to nominate a member; but as he is to be appointed by the Crown, this does not, as in the case of the other

Universities, augment the professorial element. The Edinburgh University Court has an aspect which is most repulsive to our notions of good academical government. We have the Town Council, which is chiefly a body of tradesmen, represented by two members; and the Senatus only by the Principal, who, by the way, is appointed by the Town Council. We cannot conceive it possible for professors placed in such conspicuous subordination to maintain a wholesome influence and discipline. It is not a tenable argument in favour of giving to the Town Council such a preponderance of power to say that they already possess the right to lord it over the Senatus, because that is just the ever-fermenting plague-spot in the constitution of the University of Edinburgh, the perennial source of unseemly squabbling and litigation. There will, of course, be some professorial influence felt in the election of Rector, but numerically it will be very small. In Edinburgh, as in all the Universities, the Rector is to be chosen by the General Councils, which bodies are to be composed of professors, graduates, and the members of the University Court. As the Rector is to be himself a member of the University Court, and as he is also to nominate a member, and as the General Council is likewise to nominate a member, it may be said that the principal and professors are to some extent represented by each member of every University Court, except, in Edinburgh, by the two nominees of the Town Council; and in Glasgow, by the minister of Glasgow, who is to sit *ex officio* as one of the seven members. This view, however, is not practically correct.

The graduates, as the most numerous branch of the General Council, will have the direct and absolute election of the Rector and of one assessor to the University Court. The assessor to be appointed by their nominee, viz. the Rector, will, of course, also be virtually theirs. This is a very large concession of power to the graduates, especially when it is remembered that their admission to a share in the government is not only a new thing, but is an experiment viewed by many of the best friends of the Scottish Universities as eminently hazardous. We have not the slightest sympathy with these fears; nor do we desire to see the graduate element reduced numerically below the point at which the Lord Advocate has placed it, although we should like to see it balanced by the professorial element in some such manner as we have proposed. While we make these remarks, we do not abate one iota of what we have said on former occasions, as to the prime importance of giving graduates an influential share in administering the affairs of the respective Universities. We feel confident, that when this contemplated change shall have been

effected, a new and a better educational era will commence in Scotland. Graduation in Arts will become an object of ambition as a badge of good social position. If the examinations for the degree be conducted, as is proposed by the Lord Advocate, upon proper principles, upon a uniform plan, and with a due amount of strictness in all the Universities, not only will university honours be more esteemed and more sought after, but a great impulse will likewise be given to education in all the schools of Scotland. This impulse will be more immediately felt, and more decided in its character, if an intransigent test of knowledge—or, in other words, a matriculation examination—be instituted. We do not think that this reform can be evaded upon any plea. The schools must not continue to be robbed of their own proper work. The University stimulus, now so generally excited, must be made to pervade the whole of the educational system of Scotland in a direct and practical form, and this can best be accomplished by exacting a certain minimum of knowledge from those admitted to university studies.

The other branches of the subject of matriculation and graduation, as presented to us in the Bill, will be more conveniently considered in connexion with the topics which have just been engaging our attention. The Royal Commissioners to be appointed for temporary purposes under the Bill are to be empowered:—

“To make rules for the management and ordering of the Universities: the manner and conditions in and under which students shall be admitted thereto; the course of study, and manner of teaching therein; the amount and exaction of fees; the manner of examination, with the qualifications, appointment, and number of examiners, and the amount and manner of their remuneration; the granting of degrees, whether in Arts, Divinity, Law, or Medicine; and to provide that, in so far as shall be practicable, and, in the opinion of the Commissioners, conducive to the well-being of the Universities, and to the advancement of learning, the course of study, the manner of examination, and the conditions under which degrees are to be conferred, shall be uniform in all the Universities of Scotland.”

It is impossible to over-estimate the importance of this clause. It provides for the degrees in Arts, Divinity, Law, and Medicine, being of uniform value in all the Scottish Universities. The competition downwards in medical degrees, so far as Scotland is concerned, will be terminated; and, therefore, to a certain extent, the Lord Advocate's Bill is a sterling measure of medical reform. Power to institute a matriculation is also clearly given to the Commissioners by this clause. The Royal Commission is to expire in 1862 or 1863, when the regulation of matriculation examination and graduation will

devolve upon the University Courts, but under what central ruling power does not appear. Without central control there would soon be a fatal divergence from the standard of uniformity set up by the Commissioners. This, though a great defect in the Bill, admits of easy remedy. A "University of Scotland," incidentally — and, as we think, correctly — suggested by Lord Elcho, as the *beau idéal* of Scottish University Reform, is for the present impracticable; but nearly all its educational advantages would be secured by the establishment of conformity in the examinations for the various degrees. This uniformity is a vital reform, which must now be obtained and established in perpetuity.

The definition of the term "graduates," in the interpretation clause, is the most objectionable feature of the Bill. It reads very like a stultification of the clause which we have now quoted and commented upon, and will on that ground be strenuously opposed. "Graduates," we are told, "shall mean all persons who have obtained and hold the degree of Master of Arts, and no other persons." It might afterwards, as a part of a general system, be expedient to require medical and other graduates to take a degree in Arts as a preliminary step to higher honours. This would be very proper, should it not be found practicable to institute a matriculation examination of all candidates for admission to university study. That, however, is not the point now under consideration. At the starting of the new system to declare the most numerous, the most highly educated, and the most severely examined class of Scottish graduates, to be specially excluded from university privileges, is quite monstrous. It is an act of injustice, a blunder of such magnitude, and so much at variance with the spirit of the Bill, that we are inclined to look upon the objectionable words now quoted as an interpolation by Professor Pillans. The branches which form the foundation of medicine are peculiarly adapted for sound mental training. In them have all the medical graduates of Scotland been educated and examined. The most learned profession in Scotland is perhaps the Medical. Chemistry, botany, anatomy, and physiology — the preliminary studies of the physician and the surgeon — are certainly among the very best materials for that mental athleticism which constitutes sound training in Arts. In the University of London, medical graduates were the other day admitted to Convocation under the new charter. Under such circumstances, the exclusion of Scottish medical graduates from analogous privileges would be a most wanton insult. It may be said, that the matriculation ordeal through which London medical and other

students have to pass is equivalent to a little degree in Arts. So it is ; and by all means let the same be instituted in Scotland. In the meantime, however, not only medical graduates, but all existing graduates in Art, Divinity, Law, and Medicine, ought to be admitted to equal privileges under the Lord Advocate's Bill. It would be very unwise to exclude any class of Scottish graduates from participating in the honour and responsibility of inaugurating the new system. The object ought to be rather to enlist the support and good will of all the graduates. They are, as men of learning, and science, and social position, the best fitted constituency which could be found to set the new machinery in active and healthful motion.

ARTICLE XII.

27th MAY, 1858.

Universities' (Scotland) Bill—Fusion of the Universities and Colleges of Aberdeen.

To any unprejudiced inquirer who will take the trouble to investigate the various historical, social, and educational questions involved in the Lord Advocate's Scottish University Bill, no part of it will appear so obviously sound in principle, and, in all the circumstances, so imperatively required, as that which provides for the entire fusion of the two Universities and the two Colleges of Aberdeen. Unless this amalgamation is accomplished, these institutions cannot be brought under the salutary influence of any general measure of Scottish University Reform, and must be left in the rear of educational progress. Very properly, therefore, the first clause of the Bill is to the following effect :—

“That from and after such date as may be fixed by the Commissioners hereinafter appointed by special ordinance, approved by her Majesty in Council, ‘the University and King's College of Aberdeen,’ and ‘Marischal College and University of Aberdeen’ shall be united and incorporated into one university and college, in all time coming thereafter, under the style and title of the ‘University of Aberdeen ;’ and the said University shall take rank among the Universities of Scotland as from the date of erection of King's College and University, viz. the year 1494, and all the funds, properties, and revenues now pertaining or belonging in any manner of way to

the 'University and King's College,' or to 'Marischal College and University,' shall in time coming pertain and belong to the 'University of Aberdeen.'"

The adjustment of the details of the fusion are wisely to be left in the hands of the same temporary Commission to which it is proposed to confide the settlement of such matters connected with all of the Scottish Universities as are of too special and isolated a character to be conveniently or safely embraced in a general Act of Parliament. In regard to the Aberdeen institutions, the Commission is to be empowered to deal with the funds, bursaries, and endowments, and all that now pertains to them separately, in such a way as will best promote the usefulness and prosperity of the united University and College. The Commission is—

1. To determine the number of professors, and to prescribe the course of study in the faculties of arts, divinity, law, and medicine—provided, however, that certain chairs essential to the completeness of the several curricula be maintained.

2. To abolish offices rendered unnecessary by the fusion, and to conjoin two or more such, appropriating the endowments, as far as practicable, in accordance with their original design.

3. To accept resignations of the existing incumbents of such professorships as they may think fit to abolish, and to appoint persons thus resigning to other offices in the University.

4. To determine in whom shall be vested the right of presenting professors to each of the chairs in the University, having regard, as far as possible, to the preservation of existing patronage.

5. To make arrangements as to the uses to which the buildings of the two Colleges respectively shall be appropriated; and,

6. To make rules for securing good order in the University, and regulating the course of study therein.

The Bill provides that the present Chancellor of the University and King's College (the Earl of Aberdeen), and the present Chancellor of Marischal College and University (the Duke of Richmond), shall, during their joint lives, be joint chancellors, and the survivor sole chancellor during his survivance. While we do not advocate so ungracious a proceeding as the deposition of one of the existing chancellors, we must express our fears as to the possibility of inconveniences arising from their co-ordinate jurisdiction. It is true that the Bill does not define the powers to be wielded by a university chancellor, leaving this for the Commission to regulate and determine. Looking to the general character of the measure, however, we are inclined to think that these powers will be such as to make it very

difficult for two persons to exercise them with equal authority in the same university. The powers of the University Courts are so large under the Bill, that it will probably be found expedient, in relation to certain matters—such, for example, as a sentence involving the deposition or suspension of a professor—to require the concurrence of some other tribunal or of some high functionary. This assent might either be required of the Home Secretary or of the Chancellor of the University. If the latter be selected, as we think he ought to be, it would be very awkward to have the powers of Chancellor vested equally in two persons. The fusion of the Aberdeen institutions would be incomplete under such circumstances. Perhaps the difficulty might be satisfactorily obviated by giving exclusive official power to each of the Chancellors in annual or biennial rotation. In all other respects we regard the fusion scheme, both of the Universities and of the Colleges, as proposed by the Lord Advocate, to be unexceptionable. The intricacies of some of the details, and the long period during which it has vainly been attempted to induce parties to agree to any specific plan of union of the Aberdeen institutions, make it clear that the final settlement of all knotty points by a commission is the only way of reaching a solution of the long-vexed question.

For two hundred years Aberdeen has kept itself and the surrounding district in a state of excitement with university affairs, and it is therefore natural to suppose that their summary settlement would now be felt by many as a loss of an unreplaceable kind of congenial occupation. Local celebrities rarely make compromises. Like polypes, they delight in troubled waters. In most cases individuals of this class are the real sources of the senseless, unaccommodating controversies by which the rival coteries of provincial towns are so often distinguished. Unfortunately for the cause of the advancement of learning in the North of Scotland, there exists in Aberdeen an institution which affords peculiar facilities to persons so disposed to overlay the simplest public question with bluster, balderdash, or subtleties, just as, in the circumstances, may by them be deemed most expedient. We allude to what is called the “Head Court,” which seems to be a mob, or a meeting of as many of the inhabitants as choose to attend. The “Head Court” is summoned by the Provost. The decisions at which it arrives depend upon the composition of the assembly and the tact of a few partisans by whom it is addressed. When the weather is fine, and the subject generally interesting, the “Head Court” is held *sub Jove*, and is attended by thousands. In other circumstances the attendance may not reach hundreds. A show of hands is taken on

the motions submitted. Both sides sometimes claim the victory. The *Aberdeen Journal*, when protesting against Parliament being influenced by resolutions adopted at a "Head Court," thus described the nature of the institution:—

"A Head Court—if we may judge by the Castle-street specimen—consists of nine or ten individuals trying to speak, and wearying themselves with gesticulations, and some thousands of people (men and boys) roaring, and shouting, and hooting them down as effectually as if the orators had been endeavouring to converse with the public out of the heart of Jullien's band in the full crash of a battle-piece. . . . If a stranger had been told that this was our 'Head Court,' he might certainly have been struck with the simplicity and popular character of our institutions and our way of resuscitating the ancient Saxon wittenagemote, but he would not have been impressed with the value of the judicial decision likely to emanate from such a source."

We have quoted this description from a two-year-old impression of our contemporary, as the best preface which we could give to an announcement contained in the advertising columns of the papers and authenticated by the signatures of two secretaries, to the effect that the "citizens of Aberdeen, in 'Head Court' assembled, on Friday, 14th May, had agreed to petition Parliament against the Lord Advocate's University Bill, in so far as it applies to Aberdeen, and against any measure calculated to impair the integrity of the Faculties of Arts in Marischal and King's Colleges." A petition, signed by Sir Thomas Blaikie, chairman of the "Head Court," has been forwarded for presentation in the House of Commons, to Colonel Sykes. Copies of this petition—a long, rambling document—have also been addressed to all the Scottish Members of Parliament, as well as to many other influential gentlemen. The "Head Court" at which the petition was adopted was divided in opinion, and did not muster, we observe, more than two hundred and fifty persons. Some of the Aberdeen newspapers deny that it was a "Head Court" at all. This is not a matter of much consequence. The authorities of both Colleges are, to their credit be it said, in favour of the Bill, though they desire certain amendments in it. At a meeting of the Senatus of Marischal College and University, held upon the very day on which the so-called Head Court petitioned against the Bill, it was resolved by a majority to petition in favour of its leading provisions, including the complete fusion of the Faculties of Arts in both institutions. The successful motion was an amendment on one to the effect that the Bill ought to be opposed. Eleven members of the Senatus were present. Six voted for supporting the proposal for fusion; four voted for a petition

against the Bill, and one declined to vote. An equally temperate view of the measure has been taken by the authorities of King's. They have called the Lord Advocate's attention to various points as requiring reconsideration ; but as regards the Aberdeen fusion, and the general principles of the entire Bill, they express approval. The Town Council of Aberdeen seem to be at sixes-and-sevens on the subject. After many long speeches they divided upon two motions, both of which may be regarded as hostile to many essential parts of the proposed measure.

To review the objections which have been raised to the Lord Advocate's Bill in relation to the Aberdeen question, would be an unprofitable task. Many of them neutralise each other ; some are the mere manifestation of feeling and prejudice ; others are simply topics to which it will be essential for the Commission to give patient judicial consideration. We venture to say, that not one valid argument can be adduced against the general principle of fusion. The absurdity of delaying the accomplishment of the fusion, in the hope of getting rid of local crotchets, is chimerical. This is shown by the history of the last two hundred years. In the Report of the Royal Commission upon the Aberdeen Universities, laid before Parliament during the present session, we find the following sentences :—“ The union of the Aberdeen Colleges has now been upwards of two centuries in agitation ; and during that period some ten schemes for effecting the desired object have been entertained by the Scottish Government, by the Colleges themselves, or by other public bodies, besides several propositions on the part of private individuals well qualified to deal with the subject. . . . The retrospect of these transactions, in whatever degree it may tend to stimulate our zeal for the attainment of an object so long desired, and so often and vainly attempted, is not altogether calculated to render us sanguine of success.”

ARTICLE XIII.

2nd JUNE, 1858.

Universities' (Scotland) Bill—Aberdeen Question continued—Peculiar Position of the University of Edinburgh with respect to the Town Council—Unfitness of the Town Council for the Government of a University.

THE opposition to the Lord Advocate's Scottish Universities' Bill is exactly of that selfish, pettifogging kind which might have been anticipated. A considerable number of the Aberdeen municipal politicians dislike the Bill, because it proposes to fuse their two imperfect Universities into one efficient institution. From the recent discussions which we have seen in the newspapers, we gather that many of the citizens of Aberdeen have, almost unknown to themselves, a jealous dread of a first-class University in their city. The learned "men from the South" would then, they fear, come and deprive the Caledonians of the North of the chairs which are at present so ill paid as rarely to excite the ambition of accomplished Englishmen. The "fusion" question, however, is not one of merely Aberdeen politics. It is a broad, national question; and, as such, we trust it will be honestly dealt with in Parliament. The petition of the chairman of the "Head Court" is to our minds most potently in favour of the fusion, as it is a perfectly effete document when expurgated of errors and inaccuracies, and read with the light of common sense and of historical truth.

Besides the opposition of a section of the citizens of Aberdeen, the Bill will have to encounter the determined hostility of the Edinburgh Town Council. This municipal corporation will resist in particular the transference to the proposed "University Court" of the power which now belongs to the Town Council, of governing the University. This, perhaps, is not to be wondered at. Still, considering that the members of the Town Council would, under the Bill, have to elect two of the seven members of the University Court, we had some slight hopes that they would have been satisfied, as it is not intended to interfere with their patronage of the professorships.

It may be well, as gross misrepresentations are abroad, to state succinctly the principal facts of the case between the Town Council

and the University of Edinburgh respecting University government. The Town Council and their supporters, ex-provost Duncan M'Laren and ex-bailie J. F. Macfarlane, maintain that the prosperity of the University is, or has been, owing to their good government, and their opposition to the misgovernment of the professors. The historical facts do not establish this proposition.

For nearly a century before 1825, the University of Edinburgh was governed by the *Senatus Academicus*—that is to say, by the principal and professors, so that both the *Senatus* and the Town Council lost sight of the dominion which, in 1830, a decision of the Court of Session proved that the Town Council legally possessed. Since that event, the *Senatus* has been reduced to a mere cipher by a series of encroachments of the Town Council and of law decisions. Until 1825—or 1830 perhaps—the students of the University steadily rose in numbers. The inefficiency of one or two professors did not prevent progress under the celebrity of the rest, and the judicious government by the *Senatus*. Since 1832, when the Town Council fairly commenced their systematic interference and domination, there has been a great downfall. The number of students has gone down during that period from two thousand three hundred to one thousand three hundred. It is not necessary to enter into a discussion of the various supposed causes which may have more or less conspired to bring about this state of things. We may say, however, that we more than suspect that town-council misgovernment, in certain very important questions, has largely contributed to produce it. But the point which we wish at present to urge is this—the Town Council ask the public to look to the results of their government, and we reply, that if the verdict be taken on that simple issue, the decision must be given against them.

So far as we remember, one of the acts of good and liberal government most frequently cited on behalf of the Town Council is the celebrated snubbing of the professors in relation to the course of study required for the medical degree. On account of the impossibility of keeping up the old exclusive system for medical graduation, the *Senatus* resolved to receive certificates of attendance upon the lectures delivered at the schools connected with the London hospitals, and with the Dublin College of Surgeons, as equivalent to the Faculty schools of Universities. The Town Council, with a high hand, nullified the resolutions of the *Senatus*, because the certificates of the Edinburgh self-appointed extra-academical teachers were not also recognised. Different parties may reasonably hold different opinions as to the policy and propriety of the measure of

the Senatus. It cannot, however, be disputed, that had it been carried out, the result would have been an increase in the number of students resorting to Edinburgh from England and Ireland. The increase from Ireland would have been very decided, because the Surgical School of Dublin has for twenty years refused the certificates of Edinburgh professors, on the ground of their not receiving those of the Dublin Surgical School. The breaking down of the old rigour of the Edinburgh University system had become a necessity. If the Town Council had been satisfied with a simple nullification of the resolutions of the Senatus, they could not have been said to have been guilty of an act of misgovernment. But what did they do? They decreed that one-third of the classes required for medical graduation should be admissible as taught by the lecturers of the London hospitals, schools of the Dublin College of Surgeons, *and by the extra-academical teachers of Edinburgh*. This act of grace does not satisfy the London schools; and the Dublin College of Surgeons still maintains its refusal to recognise certificates from Edinburgh University professors. The Town Council pretend that the Edinburgh Medical School has thriven better since their act of grace was passed. Public documents tell another tale. There has since that time been a falling off to the extent of seventy or eighty in the annual number of pupils. A good governing body would either have simply nullified the measure of the Senatus, or have thrown the whole curriculum open. This latter course, we apprehend, was that which ought to have been adopted. It may, perhaps, still be asked—Did the Town Council accomplish nothing by adopting the policy which we have now described? We answer, that it was not barren of results. It gained popularity for the individual town-councillors with many narrow-minded persons, by doing an apparently liberal deed. It was also the means of compelling an aged professor to resign unconditionally, and without any retiring allowance.

Far be it from us to argue that as the Town Council govern ill, the government ought to be restored to the Senatus, the body in which, in all the Universities of Scotland, save Edinburgh, it is now vested. We desire (for reasons which we have stated in former articles) to see each University governed by its own University Court, according to the plan of the Lord Advocate's Bill. As regards all the Scottish Universities, it is abundantly plain, that neither an exclusively municipal nor an exclusively academical power can advantageously reign supreme. It is equally manifest and certain that government by the Town Council has injured the fame and *status* of the University of Edinburgh. It is notorious, that for

thirty years the governors and the governed have led the life of cat and dog. According to every sound rule in civil polity, and all experience, the fault does not in such cases lie with the governed alone. If one half of what we have read in newspapers and pamphlets be true, the bailies have disorganised, and, indeed, have demoralised, the professional body as a *Senatus*. Their interference has been so incessant, and often so paltry and ill-natured, that it has lately been declared to be a common difficulty to get half-a-dozen professors to make up a meeting of *Senatus* for the despatch of business. Some professors avoid all participation in University affairs, leaving the care of the general interests of the University to those who have proved by law that it is their peculiar province. We are convinced that so strong is the repugnance on the part of the Edinburgh professors, as a body, to the tyranny of the town bailies, that they would to escape from it gladly accept the University Court, or, in fact, any other body of men, as their masters. Our sympathies are entirely with them. There is absurdity as well as a certainty of rebellion in placing over the professors persons who are undeniably inferior to them in social position and education.

Every argument which applies to the question of government applies with considerable force to that of patronage. Lord Cockburn, when Solicitor-General for Scotland, said, in 1835, in his evidence before the Commissioners on Municipal Corporations in Scotland:—"I know nothing so humiliating as to see a man of genius or learning compelled to mendicate for an academical chair by personal prostration to thirty-three town-councillors, whether chosen under the new system or the old." As the patronage cannot be expeditiously removed to a proper depositary, we would leave it where it is in the meantime. That necessary reform may be afterwards accomplished. The humiliation of men of genius and learning being governed in all their public acts by their intellectual inferiors is a monstrous abuse, which can and must be immediately put an end to. Public opinion is to a certain extent a check upon the improper exercise of patronage by such a body as the Town Council, but it cannot extend its beneficial influence to the minutiae of academical discipline.

To such of our readers as may wish to follow up the subject of a University governed by a municipality, we recommend a perusal of the evidence given before the Commissioners on Scottish Municipal Corporations in 1835. The opinions then given are the more valuable that they were not elicited with special reference to the

Bill now pending. We conclude by quoting, and cordially adopting, the sentiments expressed in the following sentence of the evidence of the late Professor Dunbar: "It is," he said, "a disgrace to the Government to have allowed the unrestricted domination of such a body as the Town Council of Edinburgh to exist so long over the University, especially after the decision of the Court of Session in favour of the magistrates' claims. And I have no hesitation in stating it as my opinion, that from the period of that decision the University has suffered in dignity, in character, and in usefulness."*

ARTICLE XIV.

8th JUNE, 1858.

Opposition to the Lord Advocate's Bill of the Majority of the Glasgow Professors.

THE Professors of Glasgow University are divided into two sections, with different, and, to a certain extent, opposing pecuniary and social interests. The one consists of gentlemen occupying chairs founded prior to 1760, and the other of those occupying chairs established subsequent to that date. The first section, or "Faculty" professors, as they are termed, look with disfavour upon the Lord Advocate's Universities Bill; and the other section, or Regius professors, regard it with satisfaction. The cause of the two classes of professors holding opposite views of this reformatory measure is very plainly indicated by their respective personal interests. A short history will make this statement intelligible.

The "Faculty" consists of thirteen professorships, viz. Divinity, Natural Philosophy, Moral Philosophy, Logic, Greek, Humanity, Mathematics, Oriental Languages, Law, Practice of Medicine, Anatomy, Ecclesiastical History, and Practical Astronomy. The very valuable property of the college foundation is managed and shared by the incumbents of these chairs. The patronage of eight of them is also in their hands. The five remaining chairs of the Faculty are in the gift of the Crown.

* Vide Appendix, Note Fifth:—on the Town Council of Edinburgh and its absolute Dominion over the University of Edinburgh.

The non-Faculty* chairs are nine in number, viz. Natural History, Surgery, Midwifery, Chemistry, Botany, Materia Medica, Institutes of Medicine, Forensic Medicine, and Civil Engineering. The Regius professors have always been dissatisfied with their inferior position, and have made various attempts to obtain that equality with their brethren which, as men of equal abilities and responsibilities, they ought to have, and which they would, without prejudice to the emoluments of existing incumbents, naturally receive under any general measure of Scottish University Reform.

Under the circumstances which we have stated, it is not a surprising fact that the Faculty, who are a majority of the Glasgow professors, should be hostile to the Lord Advocate's Bill. If this opposition arises from the motives which suggest themselves at present to our mind, we can only say that it is ungenerous and sordid. If it is based in sincerity upon the critical objections contained in the published resolutions unanimously adopted at a recent meeting of the Faculty, we may be excused for expressing unmitigated surprise. Looking to the points insisted upon in the resolutions, we certainly should have regarded the conduct of the Faculty as of a less ambiguous character had they stated their objections with a view to the amendment, and not to the rejection, of the Bill. Being in more comfortable circumstances than the other Scottish professors, and perhaps having nothing to gain personally under any University Bill, we should have liked to see them lending a helping hand to their depressed brethren. This they might have done, while they still contended for their own close corporation privileges. It is not a seemly sight to see men of learning and science co-operating with the pseudo-radical and municipal cliques of Edinburgh and Aberdeen in mustering forces to prevent the Bill being read a second time.

Some of the criticisms which the Faculty has offered are exaggerated versions of those which we and other honest friends of Scottish University Reform have urged, not as objections to the principles and leading features of the Bill, but as topics for thoughtful consideration, with a view to its amendment. For example, we are at one with "the Faculty" in wishing to see the Scottish professors

* The non-Faculty chairs are popularly called "Regius," to distinguish them from the thirteen embraced in the Corporation or Faculty. The term is liable to misconception, as some of the Faculty chairs also are in the gift of the Crown.

more adequately represented in the University Courts than is proposed in the Bill. It has transpired that the Lord Advocate is not unwilling to introduce amendments in this and all other necessary directions approved by the real supporters of the cause.

We are compelled, by the prominence given by "the Faculty," to objections on matters of detail and of mere local interest, as well as by the spirit in which the objections on these points are urged, to infer that the aim of the objectors is to defeat, and not to improve, the measure, which, we repeat, is in the main good, and which has filled the friends of education in Scotland with hope and joy.

APPENDIX.

[*Note First*, p. 9.]

LORD ELCHO'S LETTER TO LORD CAMPBELL.

" St James's Place, December 28, 1857.

"MY LORD,—I have to express my sincere regret that I am unable to be present at the meeting in support of University Reform in Scotland, at which your Lordship is to preside, on the 30th, and which I have been invited to attend. I regret this the more, as the reform or improvement of our Scotch Universities is a subject in which I have long taken a deep interest, and I would gladly, by my presence, have shown my hearty sympathy with the object of the meeting. Once, indeed, I entertained the hope that I might have been, to a certain extent, instrumental in promoting University Reform in Scotland; for when, as Scotch Lord of the Treasury, I was commissioned by Lord Aberdeen to endeavour to effect the union of King's College and Marischal College, so as to form a United University of Aberdeen, I had at first every prospect of success. Had I succeeded, the United University of Aberdeen might have been placed on such a footing as to render it thoroughly effective and complete in all its branches, so that as regards its constitution and government, its curriculum, and the salaries of its Professors, it might have served as a model for the other Universities of Scotland, whose improvement I felt confident would necessarily and speedily follow. This attempt at union failed, it is true, like all preceding attempts of a similar kind; but in any measure of University Reform the union of the two Universities of Aberdeen must necessarily find a place. I confess, however, that I should feel disposed to carry this principle of union, as applied to the form of our Universities, a great deal further; for, instead of having five or even four Universities in a small and thinly populated country, such as Scotland, each granting degrees and underbidding its neighbour, I am convinced that nothing would tend more to raise the standard of education than the establishment of one University

for the granting of degrees for the whole of Scotland, to which the existing Universities should then stand in the relation of affiliated Colleges. Such a proposal would no doubt give rise to much opposition, from a belief that local or personal dignity and income would thereby suffer; but a little reflection would, I think, lead to the conclusion that local or personal dignity would not suffer from the establishment of a University of Scotland, of which the existing Universities would form the constituent elements, and in the government of which they would each share, whilst at the same time they would acquire increased importance from their connexion with it, and from the additional value attached to a degree. As regards the question of income, it is evident that provision might be made for the continuance or increase of the salaries of the Professors, as well as for the institution of new chairs and tutorships, assuming, as we must do in any scheme for the improvement of our Universities, that Government will be willing to aid in the good work; and in Ireland, be it remembered, the Queen's University, supported by Government grants, affords a precedent for a system such as I have ventured to suggest. Into the detailed constitution of such a University it would be out of place to enter; but I would call attention to the fact, that the principle of allowing the graduates a share in the government of the University was sanctioned by Lord Aberdeen's Government at the time when I endeavoured, by his desire, to bring about the union of the two Universities of Aberdeen; and it further appears to me, that when once a constituency has been established, the University of Scotland would have claims to Parliamentary Representation, which could not readily be overlooked. But whilst we endeavour to raise the standard of education by enhancing the importance of the degree, there is one point to which we ought, I think, to look, and to which the resolutions to be proposed at the meeting do not refer, viz. the establishment of such a matriculation standard examination as will prevent the admission of any students who have not an elementary knowledge of the common subjects taught at the University. This is an evil at present loudly complained of, and one against which we ought to guard; but in so doing, care must be taken that we do not fix too high the standard of admission, lest we thereby curtail the usefulness of our Universities, and at the same time destroy the character of our parish schools, which are primarily designed for the education of the mass of the people.

"I must now apologise for the length of this letter, but being unable to attend the meeting, I was anxious to submit these points to your Lordship's consideration; and, in conclusion, I have only to express my general concurrence in the views embodied in the printed resolutions, and my hearty good wishes for the success of the movement in which your Lordship takes so prominent a part.

"I remain, my Lord,

"Your Lordship's obedient servant,

"ELCHO."

[*Note Second*, p. 21.]

EXTRACT FROM LETTER TO THE EDITOR OF "THE MORNING POST," SIGNED
"ULYSSES, M.A.," OF DATE 12TH FEB. 1858.

"AND, first, let me say that you have rather too readily and loudly echoed the cry as to the failure of Scottish students at public competitions. Let me ask in what field they have failed, except in the competition for the East India Civil Service, where it is surely no great wonder if, leaving their own Universities, as they do, at the age of 19 or 20, they should be beaten by graduates from Oxford, Cambridge, or Dublin, of 23? Fix the minimum of age in competitors at 19 or 20, which every intelligent East Indian will tell you is what the real interests of the service demand, and which every one may see is a much better age than 23 or 24, at which to begin a course of *practical* education for office in India, and let us watch the results as regards Scottish competitors. Still, while entering this gentle protest, I am ready to admit that the standard of tuition [in the Scottish Universities] is lower than it might be, and the general advancement of the students less than if they were to enter College with more uniform and higher attainments."

For this and another letter of the same Correspondent, see the *Morning Post* of 15th of January and 6th of April, 1858.

[*Note Third*, p. 24.]

QUEEN'S UNIVERSITY AND QUEEN'S COLLEGES IN IRELAND.

The following Facts and Figures require no comment:—

UNIVERSITY.—The expenses of the University, as distinct from the three Colleges, for the year ending March 1855, are thus stated in an Appendix to "Report on the Condition and Progress of the Queen's University for the year ending 1st Sept. 1855."—*Reports of Commissioners, Vol. XIX. for 1856, British Museum.*

1. <i>Salaries of Examiners</i> , 20 in number, being one for each branch for which there is a Professor, the Salaries ranging from 100 <i>l.</i> , at which there are 9, to 20 <i>l.</i> , at which there is 1	£1430	0	0
2. <i>Office Charges</i> , viz. Secretary's Salary, 350 <i>l.</i> , Incidentals, 180 <i>l.</i> , Exhibitions, Prizes, and Medals, 500 <i>l.</i>	£1030	0	0
	£2460	0	0
Deduct probable amount of Fees on Degrees and Diplomas	94	0	0
Total provided by Parliament	£2366	0	0

In the estimate of the expenses of the University for the year ending 31 March, 1857, there are two additional Examiners provided for, viz. one in Sanscrit and one in Arabic, at 30*l.* each, and the amount of Fees on Degrees and Diplomas deducted is 100*l.*, so that the expenditure of public money for 1857 is . . . £2415 0 0

The above is the expenditure only on the University or Central Institution to which the three Queen's Colleges are affiliated. The annual outlay of public money on the three colleges in which, under the University, the work of education is carried on, is believed to be about 24,000*l.*; but from the manner in which the estimates are printed it has been found impossible, while these pages were passing through the press, to discover all the items. The amount, however, applied to the salaries of the Principals (or Presidents) and Professors is in each College 4650*l.* Each President has a salary of 800*l.*, paid entirely by Government, and has likewise an Official Residence.

Total annual expenditure of public money in salaries in the three Queen's Colleges independent of extra allowances to Professors as examiners £13,950 0 0

The "Estimates for Civil Services" [*Vol. XXXIX.*, pp. 511, 534, *British Museum*] containing the following *special* grants to the Queen's Colleges:—

In 1855	.	.	.	£9552
1856	.	.	.	4800
1857	.	.	.	4800

To the entry of 1857 is appended the following "Note: The Fees payable by the students having been greatly reduced; in order to extend the benefits of Education, it has become necessary to provide for the incidental expenses formerly defrayed from the Fees."

These grants are presumed to be for the libraries, apparatus, and museums, which did not receive the anticipated support from Fees.

The expenditure, of which some of the details have been given, when added to the grant to Maynooth of 30,000*l.*, exhibits an annual expenditure of public money on College and University education in Ireland of about 60,000*l.*

So far as we can discover, the regular annual expenditure on the Scottish Universities is as follows:—

St. Andrews University	..	..	..	..	£1009	19	4
University and King's College of Aberdeen	..	..	..	..	955	0	10
Marischal College and University, Aberdeen	..	..	..	..	1175	3	2
Glasgow University [including Botanic Garden ?]	..	..	..	..	1360	0	0
Edinburgh University, including Botanic Garden and Observatory	..	..	..	..	2610	0	0
Total to Scottish Universities	..	..	..	..	£7110	3	4

The number of Students enjoying the benefits of the Irish and Scottish grants respectively is deserving of attention.

The attendance at the three Queen's Colleges in Ireland in 1856 was as follows :—

Belfast	..	..	..	..	..	..	..	193
Cork	..	..	..	..	..	..	..	113
Galway	..	..	..	..	..	..	..	41
Total								<hr/> 347

The attendance at the two Universities in Aberdeen is more than double the above, viz. 782, as stated in the Report of the Royal Commission, presented to both Houses of Parliament during the present Session [p. 146]. The attendance at King's College alone, which receives, of all the Scottish Universities, the smallest amount of public money, viz. 955*l.*, exceeds by thirty-two that of all the Queen's Colleges together.

It must further be observed, that when this amount of 955*l.* received by King's College is analysed, it cannot, with truth or propriety, be termed a Parliamentary grant, or a benefaction from the public purse, as it consists, with the exception of 150*l.*, partly of very ancient grants of Crown property, and partly of £700*l.* per annum given out of the hereditary revenues of the Crown in Scotland, as a compensation for teind or tithe property, which formed part of the old endowments of the College, and which had been abstracted from it by the operation of particular statutes. This compensation was declared by the Royal Commission of 1824 to have been inadequate. The true state of the matter is, that the old income of the College, or, to speak more properly, what remains of it, to the extent of 805*l.*, is now payable by the nation, as having disposed of, or appropriated, the property from which that income proceeded. The same will be found to be partly the case as regards the annual payment to St. Andrews, and to some extent also as regards the payments to the other Universities of Scotland.

It has been seen that the number of Examiners provided out of the public purse for the Queen's University and Colleges in Ireland was, in 1855, twenty, at an expense of 1430*l.*; and in 1857, twenty-two, at an expense of 1490*l.* The results of this provision are certainly not very great; the number of Students who presented themselves for examination in 1855, being forty-four. Of whom there passed :—

For the Degree of M.D.	..	..	..	..	..	9
„ „ A.M.	..	..	..	..	..	4
„ „ A.B.	..	..	..	..	..	19
„ „ M.B.	..	..	..	..	..	1
First Examination in Medicine..	..	..	..	..	..	3
For Diploma in Elementary Law	..	..	..	..	..	4
„ Engineering	..	..	..	..	..	1
„ Agriculture	..	..	..	..	..	1
Total						<hr/> 42

It is scarcely necessary, it is hoped, to observe, that the object for which these facts are stated is not to depreciate the Queen's University and Colleges,

or to discourage the Legislature in an experiment worthy of a great nation, and of all the expenditure which it involves, but simply to bring more forcibly to light the claims of those ancient, and, to a great extent, self-supporting institutions, of a similar nature, in another part of the kingdom, to the maintenance of which the national faith was solemnly pledged, and which, notwithstanding their contributions to the fame and prosperity of the nation, have been not enriched but impoverished.

[*Note Fourth*, p. 37.]

INCOMES OF SCOTTISH PRINCIPALS AND PROFESSORS.

IN the Treaty of Union between the two kingdoms, a stipulation was made that the Scottish Universities should be kept up for ever. This compact has not been fully observed. The changes required in academical instruction and discipline, consequent upon the social progress of the nation, have not been fittingly carried out. With a few exceptions, the incomes of the Principals and Professors have been allowed to contrast most painfully with the emoluments of all Scottish functionaries, even with those of a very inferior description. The incomes of the judges and all the legal officers have also been liberally augmented from time to time; whereas the incomes of the University teachers have not only not been increased with this social progress, but have actually in numerous instances been diminished by the appropriation of the "teind," or tithe property, to improve the livings of the parochial clergy. *The choice of persons to fill some of the most important offices of the Scottish Universities is to a great extent limited, from the smallness of the emoluments, to those possessed of private fortunes, or who can catch a plurality of appointments.* It is impossible to conceive a more mischievous system.

The following figures, which we know to be in the main correct, show the estimated income of the present Principals of the Scottish Universities. The fixed salaries are those returned in the Report of the Royal Commission. As many of them depend to a greater or less extent upon the price of grain, they may be held as averaging a little higher, in consequence of the higher price of grain in recent years. For example, in the Report of the Aberdeen Universities Commission, which has just been issued, the average emoluments of the Principals, during the last five years, are returned at 313*l.* for King's. and 515*l.* for Marischal College, in place of at 280*l.* 18*s.* 11*d.*, and 438*l.* 15*s.* 9*d.*, respectively. Some of the Principals may perhaps have private sources of income. The point to which attention is directed is the miserably inadequate official incomes of the men placed at the head of the learning and science of Scotland:—

ESTIMATED INCOME FROM ALL OFFICIAL SOURCES OF THE PRESENT PRINCIPALS
OF THE SCOTTISH COLLEGES.

St. Andrews, University of — United College of St. Salvator and St.

Leonard: Principal, Sir David Brewster, LL.D., salary as	£	s.	d.
Principal	300	0	0
Pension from Crown (?)	300	0	0
Total income	£600	0	0

St. Mary's College — Principal Tulloch, salary as Principal	231	16	3
Additional salary from Government since report of Commission ..	75	0	0
Total income	£306	16	3

Glasgow, University of — Principal Barclay, salary as Principal ..	450	11	11
Fees on degrees in Divinity	5	0	0
Total income	£455	11	11

Aberdeen, University and King's College of — Principal Campbell, salary as Principal	280	18	11
Total income	£280	18	11

Edinburgh, University of — Principal Lee, salary as Principal ..	151	2	2
Salary as Professor of Divinity	196	2	2
Fees from, say 100 Divinity students at 2 <i>l.</i> 2 <i>s.</i>	210	0	0
Income as one of the Deans of the Chapel Royal, varies with price of grain, estimated at from 700 <i>l.</i> to 800 <i>l.</i> — say	700	0	0
Salary as Principal Clerk to the General Assembly	124	9	0
Total income	£1381	13	4

Aberdeen, Marischal College — Principal Dewar, salary as Principal ..	324	5	9
Salary as Lecturer on Church History	50	0	0
Fees of Church History class — say 40 students at 1 <i>l.</i> 11 <i>s.</i> 6 <i>d.</i> ..	64	10	0
Total income	£438	15	9

ABSTRACT.	£ s. d.			From office as Principal alone.		
	£	s.	d.	£	s.	d.
Sir D. Brewster	600	0	0	300	0	0
Principal Tulloch	306	16	3	306	16	3
„ Barclay	455	11	11	455	11	11
„ Campbell	280	18	11	280	18	11
„ Lee	1381	13	4	151	2	2
„ Dewar	438	15	9	324	5	9

The entire income, as will be seen from the above, of the Principal of the ancient University of Aberdeen, an institution especially and deservedly venerated in the north of Scotland, is 280*l.* 18*s.* 11*d.* Principal Lee's lucrative pluralities are an accidental result of his individual good luck, the patronage of his various offices being in different hands.

The Professors are, as a rule, as badly off as the Principals. Some of the Medical professors being popular practitioners, are in the receipt of large incomes from fees. Such cases, however, are not the rule. The income of the chair of Oriental Languages in Edinburgh is 257*l.* 16*s.*; and that of the same professorship in Marischal College, Aberdeen, 99*l.* The Edinburgh chair of Rhetoric and Belles Lettres yields 234*l.* 8*s.*; and the St. Andrews chair of Natural Philosophy, 278*l.* 5*s.* Upon referring to Oliver and Boyd's *Edinburgh Almanac*, we find that some of the servants of the law courts are much more liberally paid. The chief macer of the Court of Justiciary draws a fixed salary of 400*l.* per annum from the national purse, while the Professor of Civil Law in the Metropolitan University of Scotland, within half a mile of the said macer's sphere of ceremonial beadledom, is reported by the Commissioners to have a total income of only 251*l.*

Many similar illustrations might be given. Suffice it, however, to say, that in Scotland the cause of learning is at present degraded by the holders of university appointments not having official incomes adequate to the maintenance of the most frugal gentility. The proper remedies for this deplorable condition of affairs are those which the Lord Advocate's Bill proposes—a grant from the Consolidated Fund, and the amalgamation of the two Universities in Aberdeen.

[*Note Fifth*, p. 55.]

THE EDINBURGH TOWN COUNCIL, AND ITS ABSOLUTE DOMINION OVER THE UNIVERSITY OF EDINBURGH.

THE leading stock argument in favour of Town Council domination, retailed to English Members of Parliament, is generally put in this form. We acknowledge (say the Members of the Council, and other burgh politicians), that it is apparently anomalous for butchers, bakers, linen-drapers, and such-like persons, chosen to represent local and political parties, to be invested not only with the duty of selecting, but also with the uncontrolled power of governing the Professors of the Metropolitan University of Scotland. But we maintain that this is not so anomalous as it is to allow juries selected from the same class, or perhaps even from a lower class, to adjudicate in cases involving the fate of life and property. To this specious reasoning we reply, that a low-class jury often decides ignorantly, and under the influence of passion, even though there is an experienced judge placed over them to supplement their deficient knowledge. There is really, however, no parallel between trial by jury and a Town Council electing Professors, governing a University, and prescribing its courses of studies for degrees. Mr. Black's analogy is not a true analogy.

The evidence given in 1835 before the Commissioners appointed to in-

quire into the state of the Municipal Corporations of Scotland, is rich with information on this subject. The opinion which the Commissioners give is in exact accordance with that expressed in the text.

The following extracts from their Report are deserving of special attention:—

“The Council of the city of Edinburgh, ever since the foundation of its University in the reign of James VI. has, with a few exceptions, exercised the right of patronage of all the offices of that institution. It has also exercised an extensive control in regulating the fees, fixing the course of study, establishing new Professorships, and generally in the whole internal government of the College.

* * * * *

“The opinion that the Edinburgh system of University patronage has worked well, arises, we conceive, from the want of any tolerable standard or example in this country, from which to form an estimate of the manner in which the duty of patrons of a University ought to be discharged.

“The Town Council of Edinburgh, consisting of thirty-three members, is in our opinion too large a body to discharge with advantage the duties of patrons of literary and scientific offices. So great a number cannot possess that unity of purpose which would enable them to anticipate a canvass, and at once to fix on the most eligible person to fill the vacancy. Such we consider to be the duty of University patrons; and we esteem the allowing of a canvass for an office in the University, however conducted, to be in itself an evil. In a body so numerous divisions are apt to arise, which cannot fail to obstruct the fair estimate of the merits of rival candidates. But, above all, the feeling of individual responsibility is destroyed, where a good appointment can reflect little honour, and a bad one is not felt to throw disgrace upon any one elector.”

“Under the former constitution of the Town Council a great majority of the members were usually merchants* and tradesmen, but little qualified by education to be themselves very competent judges of the literary or scientific qualifications of others. From that cause, also, as well as from their number, they were peculiarly open to the influence of personal solicitation, and of local prejudice and prepossession. Even under the present constitution of the Council, the qualifications which are likely to recommend individuals to the choice of their fellow-citizens as Town Councillors, are in most cases rather those which would fit them for taking an active part in the ordinary business of life, than such as are calculated to render them suitable patrons of a University; and indeed their competency for the discharge of this particular duty will probably be little regarded. The fluctuating nature of the body is, besides, very unfavourable to the steady and consistent administration of this important trust; and the political feelings which are so apt to influence their own appointment are but too likely to affect the course of their conduct in matters which ought of all others to be exempted from their operation.

* * * * *

“In the words of one of the gentlemen† examined, ‘It is the greatest possible mistake, though a very common one, to suppose that the success of the University has been owing to this mode of election. Its chief celebrity has been during the last century; and the rise of Scotland for the hundred years that succeeded the Union was so irresistible, not only

* In Scotland, small shopkeepers are designated “merchants.”

† The late judge, Lord Cockburn.

in learning, but in every thing, that the greatest abuses might have existed, and did exist, and yet the country flourished. I have heard it stated by the highest persons and in the highest places, that the agricultural and commercial prosperity of Scotland was owing to the exclusion of the people from any share in the representation; and no doubt these two things, namely, their exclusion and their prosperity, did co-exist: so did the prosperity of the University, and the election by the Town Council; but there was probably no system of election that could have been adopted at that particular period of our history under which many good Professors would not have arisen in the metropolis [of Scotland]. It is a much truer test of the excellence of any elective system to look to the number of ill-qualified persons who have been chosen, while well-qualified ones have been rejected. A single flagrant case of this description shows the true tendency of the system better than many right appointments. It would be indelicate to illustrate this view by examples; but I am confident that the facts would amply illustrate and condemn the scheme of placing such elections in any body constituted like the magistrates of Edinburgh. No one who has lived long here can have any difficulty in applying these observations.'

"We have not thought it proper to take evidence with regard to particular cases of ill-bestowed patronage, as this could not be done without injuring the feelings of individuals. The admitted and notorious circumstances connected with its administration have appeared to us fully to warrant the conclusions to which we have come."

* * * * *

"The Town Council of Edinburgh, as patrons of the University, has been found to have the right of regulating the fees,—of prescribing the course of study required of candidates for degrees,—of creating, subdividing, and suppressing professorships,—and generally of directing the internal economy of the College. Its interference in these matters is complained of by the Professors as injudicious and vexatious. We think there can be little difference of opinion as to the injurious effects of the internal control exercised by the Town Council; and therefore, whether we be justified or not in concluding that the higher branch of patronage, which consists in supplying vacant professorships, ought no longer to be intrusted to the Town Council of Edinburgh, *we are clearly of opinion, that there is no reason why they should continue to administer this part of the duty of patrons, which requires an intimate knowledge of the objects and necessities of the College, and of the progress and comparative advancement of science and literature in it, and other academical institutions, and which is more liable than even the higher department to gross and frequent abuses.*"

* * * * *

"Our inquiries, however, have impressed upon us the urgent necessity of a change of system in the management of the University of Edinburgh; and as the delay attendant on a more extended reformation renders expedient the adoption of a partial measure, which may not be inconsistent with a general system, if any such should be hereafter adopted for regulating the patronage and management of all the Universities of Scotland, we beg leave to recommend,—

- "1. That a body of five Curators shall be constituted, in whom shall be vested the whole patronage and management of the University of Edinburgh, with all the power at present exercised by the Town Council in that matter.

- “ 2. That each Curator shall hold his office for ten years from the date of his appointment, and shall then be re-eligible.
- “ 3. That of these Curators two shall be named by the Crown, two by the Town Council of Edinburgh, and one by the Senatus Academicus.
- “ 4. That the Curators shall not be Members either of the Senatus Academicus or Town Council, and that they shall receive no salary or emolument whatever.

“ In proposing these outlines of a plan for vesting the patronage and government of the University of Edinburgh in a Board of Curators, we are aware of the objections which may be urged against it. Probably no untried measure could be proposed, to which some objections would not be urged. We have had in view the system which has been found advantageous in the most distinguished foreign universities, and we have endeavoured to adopt so much of it as seems to suit the institutions and peculiar views of this country. We have the less scruple in proposing so entire a change, that we do not think the present system of patronage susceptible of any effectual reformation, and we conceive that almost any change which should place it in the hands of a small and responsible body, would be of advantage to the University.

* * * * *

“ The only other Town Council which has any university patronage is that of Aberdeen, where they have the appointment of two Professors in Marischal College. The same observations that have been made with regard to Edinburgh apply to the university patronage of Aberdeen.”

CLAUSES AS PROPOSED TO BE AMENDED BY THE LORD ADVOCATE.

THE clauses which the Lord Advocate proposes to amend are subjoined in their altered form, as printed in the Notices of the House of Commons. It is gratifying to observe that the clauses as altered carry out to a great extent the views advocated in the *Morning Post*.

IV. The Senatus Academicus of each of the said Universities shall consist of the Principal or Principals and whole professors in each University, and shall possess and exercise the powers heretofore belonging to a Senatus Academicus in so far as the same are not modified or altered by or in pursuance of the provisions of this Act: and shall superintend and regulate the teaching and discipline of the University, and administer its property and revenues, subject to the control and review of the University Court, as hereinafter provided; and the Principal, or the Senior Principal if more than one, shall be the ordinary President of the Senatus Academicus, with a deliberative and casting vote; and the Principal shall have the constant and ordinary inspection of the Professors in the discharge of their duties, with power at all times to superintend and visit the several

classes, and shall be bound to visit each class not less than *twice* each Session.

V. There shall be in each University a general council consisting of the Chancellor, of the Members of the University Court, of the Professors, of all Masters of Arts of the University, of all Doctors of Medicine of the University who shall, at any time within three years from and after the passing of this Act, establish, to the satisfaction of the Commissioners hereinafter appointed, that they have, as matriculated students of any Scottish University, given regular attendance on the course of study in the Faculty of Arts for three complete Sessions, and also of all persons who within such period shall establish to the satisfaction of the said Commissioners that they have, as matriculated students, given regular attendance on the course of study in the Faculty of Arts in the University for four complete Sessions: Provided, that no person shall be a Member of the General Council until he has attained the age of twenty-one years complete; and the said General Council shall assemble *twice* every year, on such days as may be fixed by the Commissioners herein-after appointed, subject to alteration thereafter from time to time by resolution of the said Council, with the approval of the University Court, at the meetings of which Council the Chancellor, and in his absence the Rector, whom failing, the Principal or Senior Principal, whom failing, the Senior Professor, shall preside, and shall have a deliberative and also a casting vote: It shall be competent to such Council to take part in the election of Office Bearers of the University in manner herein-after provided, and also to take into their consideration all questions affecting the well-being and prosperity of the University, and to make representations from time to time on such questions to the University Court, who shall consider the same, and return to the Council their deliverance thereon.

VI. That the General Council of the University of Aberdeen shall consist of the members of the University Court, of the Professors, and of all such Graduates and Students, as herein above provided in regard to the other Universities, whether they be Graduates and Students of the University and King's College, or of Marischal College and University.

VII. The University Court of the University of St. Andrews shall consist of the following members; viz.,

1. A Rector to be elected by the General Council of the University;
2. The Senior Principal of the two Colleges;
3. An Assessor to be nominated by the Chancellor;
4. An Assessor to be nominated by the Rector;
5. An Assessor to be elected by the General Council;
6. An Assessor to be elected by the *Senatus Academicus*:

Four shall be a quorum; and the Rector and the Assessors shall continue in office for *four* years; and no Principal or Professor of any University shall be eligible to the office of Rector or Assessor, except in the case of the Assessor to be elected by the *Senatus Academicus*.

VIII. An additional Assessor is to be elected by the *Senatus Academicus* who may be a Professor, and the quorum is increased from *three* to *five*.

IX. An additional Assessor is to be elected by the *Senatus Academicus*, who may be a Professor ; and the quorum is increased from *three* to *four*.

X. Same alterations as in VIII.

XII. 5, 6, 7, will stand thus :

5. Upon sufficient cause shown, and after due investigation, to censure a Professor or to suspend him from his office and from the emoluments thereof in whole or in part for any period not exceeding *one year*, or to require him to retire from his office on a retiring allowance, or to deprive him of his office ; and during the suspension of any Professor to make due provision for the teaching of his class :

Provided always, that no such sentence of censure, suspension, or deprivation, or requisition on a Professor to retire from office, shall have any effect until it has been approved by Her Majesty in Council.

6. To inquire into and control the administration by the *Senatus Academicus* of the revenue, expenditure, and all the pecuniary concerns of the University, including funds mortified for bursaries and other purposes.

XV. 9. To provide by special Ordinance, to be approved of by Her Majesty in Council, at what Date, with reference to each of the said Universities, the Provisions of this Act shall come into operation :

Provided always, that all rules, statutes, and ordinances to be made by the Commissioners shall be published in the *Edinburgh Gazette* for four consecutive weeks, and shall thereafter be submitted for the approval of Her Majesty in Council ; and no such rule, statute, or ordinance shall be effectual until it shall have been so published and approved : Provided also, that each of the said Universities shall be governed and conducted according to the existing law and practice until the Commissioners shall have made and published, with reference to each University, an ordinance providing at what date this Act shall come into operation, and such ordinance shall have been approved of by Her Majesty as hereinbefore provided.

XVI. 6. All rules, *statutes* and ordinances . . . shall be published *and approved*, &c.

Additional Clauses A. and B.

Clause A.

(For preservation of statutes.)

All rules, statutes, and ordinances to be made by the Commissioners shall, when approved by Her Majesty as hereinbefore provided, be inserted in a book or books to be signed by the Commissioners or their quorum, and such book or books shall, on the expiration of the powers of the Commissioners, be lodged with Her Majesty's Clerk Register for Scotland, and shall be preserved among the public records, and a duplicate shall be sent

to each of the said Universities of the rules, statutes, and ordinances applicable thereto, and fresh rules, statutes, and ordinances, shall be observed until the same be altered in manner hereinbefore provided.

Clause B.

(Power to sue and be sued.)

The said Universities may sue and be sued under the name and title of "The University of St. Andrews," "The University of Glasgow," "The University of Aberdeen," and "The University of Edinburgh," respectively.